



# Board of Commissioners Agenda

## Town of Swansboro

Tuesday, November 12, 2024

---

### Board Members

John Davis, Mayor | William Justice, Mayor Pro Tem | Pat Turner, Commissioner  
Jeffrey Conaway, Commissioner | Douglas Eckendorf, Commissioner | Joseph Brown, Commissioner

---

#### I. Call to Order/Opening Prayer/Pledge

#### II. Public Comment

Citizens have an opportunity to address the Board for no more than three minutes per speaker regarding items listed on the agenda. There is a second opportunity at the end of the agenda for the public to address the Board on items not listed on the agenda.

#### III. Adoption of Agenda and Consent Items

The Town Clerk respectfully submits to the Board, the Regular Agenda and the below consent items, which are considered to be of general agreement and little or no controversy. These items may be voted on as a single group without Board discussion "or" if so desired, the Board may request to remove any item(s) from the consent agenda and placed for consideration separately.

##### III. Consent Items:

- a. August 13, 2024, Regular Meeting Minutes
- b. August 13, 2024, Closed Session Minutes
- c. August 27, 2024, Regular Meeting Minutes
- d. August 27, 2024, Closed Session Minutes
- e. Special Use Permit Order for Brezza Lofts Lot 8 Ward Farm Town Center
- f. Budget Ordinance Amendment #2025-4
- g. Tax Refund Requests

The Onslow County Tax Collector recommends refunds of the below listed taxes totaling \$250.20

##### *Vehicle Tax*

Henson, Rachelle E.	\$23.70	Tag Surrender
Pearce, Donnie G.	\$27.00	Tag Surrender
Yingst, William Lester III & Deborah M.	\$35.53	Tag Surrender
Cooke, Michelle L. & Brian J.	\$10.85	Sold/Traded
Dunn, John C.	\$21.40	Tag Surrender
Jayne, David M	\$43.75	Military
Ringo, Louisa M.	\$51.97	Tag Surrender
Climie, Eric J.	\$29.65	Tag Surrender
Floyd, Boyce Wayne Jr.	\$2.99	Tag Surrender
Hayden, Brandon A.	\$3.36	Military

#### IV. Appointments/Recognitions/Presentations

a. **Cub Scouts Webelos Den, Pack 0003 Civic Questions**

As part of their requirements Cub Scouts must speak with elected official or officials about the electoral process. Webelos Den, Pack 0003 will asked the board 2- 3 questions.

b. **Presentation of Drawing by Bella Vinson**

c. **Recognition - Animal Chip Reader Installation**

Sunnie Tortoric, Susan Passey with Paws 4 Purpose, and Melissa Anderson with MilFed Construction Company will be recognized for their efforts to have an animal chip reader installed at the Public Safety Building.

d. **Recognition of Commissioner Brown and Kathy Brown**

**Presenter: Mayor John Davis**

Mr. & Mrs. Brown won the Gold Medal in the North Carolina Senior Games Cornhole Mix-Double 65-69 age group and Mrs. Brown won the Gold Medal in the Individual Women's 65-69 age group.

#### V. Public Hearing

#### VI. Business Non-Consent

a. **Lancers Christmas Donations for Disadvantaged Children**

**Presenter: Mayor John Davis**

b. **Public Street and Sidewalk Acceptance Request- Shadow Creek Estates**

**Presenter: Rebecca Brehmer, CFM, CZO – Town Planner**

Tidewater Associates, Inc, on behalf of One Harbor Church, Inc, is requesting acceptance of public streets and sidewalks for Shadow Creek Estates subdivision. This request includes all streets within the subdivision, Shadowcreek Drive, Big Pine Court, Diamond Ridge Court, Hibiscus Court, Marshview Court, and sidewalks.

*Recommended Action: Motion to approve or deny Resolution 2024-R10 to accept public streets and sidewalks in Shadow Creek Estates subdivision.*

c. **Muscovy Duck Discussion**

**Presenter: Jon Barlow – Town Manager**

A discussion focusing on the rules and regulations concerning the management of the Muscovy Duck population in the Town of Swansboro was requested by the Board.

*Recommended Action: Informational purposes only*

d. **Visitors Center Repair and Maintenance**

**Presenter: Jon Barlow – Town Manager**

The Visitors Center located at 203 Church St. has evidence of mold growing in numerous areas of the structure. The conditions necessitated the need to close the building until the problem can be remediated. The Board instructed staff to engage the services of an expert in the area of mold identification and remediation. A thorough inspection was performed on October 15, 2024, by Safe Harbor and will be presented.

*Recommended Action: Provide staff direction on the preferred course of action to remediate the problem.*

**e. 2nd Amendment/Weapon Allowance at Town Hall**

**Presenter: Jon Barlow – Town Manager**

A discussion focusing on the rights contained within the 2nd amendment to the US Constitution, pertaining to the allowance of weapons at Town Hall was requested by the Board.

*Recommended Action: Review and discuss.*

**f. Proposal to Establish a Funding Policy/Funding Request Application for Nonprofit Organizations**

**Presenter: Jon Barlow – Town Manager**

At its October 22, 2024, regular meeting, the Board directed staff to develop a funding policy/funding request application for nonprofit organizations. This policy aims to establish a clear and equitable framework for allocating resources to local nonprofits that provide essential services, align with the Town’s priorities, and support community welfare.

*Recommended Action: Motion to approve the draft Funding Policy and application for Nonprofit organizations.*

**g. Discussion on filling the Board Vacancy**

**h. Future Agenda Topics**

**Presenter: Alissa Fender – Town Clerk**

Future agenda items are shared for visibility and comment. In addition, an opportunity is provided for the Board to introduce items of interest and subsequent direction for placement on future agendas.

*Recommended Action: Discuss and provide any guidance.*

**VII. Items Moved from Consent**

**VIII. Public Comment**

Citizens have an opportunity to address the Board for no more than five minutes regarding items not listed on the Agenda.

**IX. Manager's Comments**

**X. Board Comments**

**XI. Closed Session**

- a. *Motion to enter closed session pursuant to N.C.G.S. 143-318.11 (a) (2) to review the 2024 Sam Bland Award applications.*

**XII. Adjournment**

**Town of Swansboro**  
**Board of Commissioners**  
**August 13, 2024, Regular Meeting Minutes**

In attendance: Mayor John Davis, Mayor Pro Tem William Justice, Commissioner Jeffrey Conaway, Commissioner Pat Turner, Commissioner Joseph Brown, and Commissioner Douglas Eckendorf.

\*\*\*\*\*

**Call to Order/Opening Prayer/Pledge**

The meeting was called to order at 6:00 pm. Mayor Davis led the Pledge of Allegiance.

**Public Comment**

Cynthia Lacorte of 220 Elm Street shared with the board that she was disappointed that public comment was not offered at the special meeting held on July 30, 2024. She also referenced an email sent to town officials on July 22, advocating for a strategic approach to securing property for the Emergency Operations Center/Public Safety Facility.

Mayor Davis advised Ms. Lacorte that public comment is required only at regular meetings and that it was at the discretion of the board for allowance at special meetings. He additionally assured her that the EOC/PSB Site Selection Committee was actively planning for multiyear outlook.

Jerry Seddon of 210 Walnut Street addressed the board sharing that he was interested in serving the Historic Preservation Commission and would gladly fill the vacant seat.

**Adoption of Agenda and Consent Items**

On a motion by Commissioner Conaway, seconded by Commissioner Turner, the agenda, as amended to add Closed Session NCGS § 143 318.11(a)(3) to consult with the attorney employed or retained by the public body in order to preserve the attorney-client privilege, and the remaining below consent items were approved unanimously.

- March 26, 2024, Regular Meeting Minutes
- April 9, 2024, Regular Meeting Minutes
- April 9, 2024, Closed Session Minutes
- April 23, 2024, Regular Meeting Minutes
- May 7, 2024, Special Meeting
- Budget Ordinance Amendment #2025-1
- PEV Charging Station Proposed Fees & Fee Schedule Amendment
- Tax Refund Requests totaling \$27.71.

### **Appointments/Recognitions/Presentations**

#### *Recognition of Swansboro High School Valedictorian, Caroline Lott*

Mayor Davis presented a proclamation to honor Miss Lott and to recognize her academic accomplishments and community involvement. August 13, 2024, was proclaimed "Caroline Lott Day" in Swansboro.

#### *Swansboro Swimming Pool Committee*

Manager Barlow reviewed that at its June 11, 2024, meeting, the Board of Commissioners created a committee for the purpose of researching the addition of a Swimming Pool in Swansboro. Matthew Prane was appointed as chair and provided with the responsibility for recommending members.

Mr. Prane shared with the board that he selected Scott Evans, the Swansboro High School Swim Coach and Brooks Barnett with Miracle Pools as the additional member of the committee.

In response to inquiries from the board Mr. Prane clarified the following.

- He would help with grant writing and leg work
- Neither of the individuals selected were Swansboro Residents.

Commissioner Conaway shared that he preferred that Swansboro residents be part of the committee.

On a motion by Commissioner Turner, seconded by Commissioner Brown Resolution 2024-R8 creating the Swansboro Swimming Pool Committee and appointing the members recommended was unanimously approved. Mr. Prane was advised to add 1 or 2 more members that were Swansboro residents and return with recommendations at a future meeting.

#### *Employee Introduction and Oath of Office*

Mayor Davis introduced two new officers to the Police Department, McKenzie Gates and Daniel Rodrigues. The oath of office was administered to both officers.

#### *Board Appointments*

Clerk Fender reviewed that due to a resignation, there was a vacancy on the Historic Preservation Commission. There were 3 applicants interested in the seat.

On a motion by Commissioner Conaway, seconded by Commissioner Turner, with unanimous approval, Jerry Seddon was appointed to the Historic Preservation Commission.

The board took a recess from 6:31 pm to 6:37 pm.

**Public Hearing**

*UDO Text Amendment to Section 152.073 Moratoria*

Planner Brehmer reviewed that after the Town Attorney provided a presentation on Moratoria at a recent board meeting, he advised that the UDO Section 152.073, Moratoria, was not consistent with G.S. § 160D-107 Moratoria. The proposed text amendment to UDO Section 152.073 Moratoria will have the first sentence (A) Authority to read “As provided by G.S. § 160D-107, the Board of Commissioners may adopt temporary Moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses.” in order to be consistent with 160D-107 Moratoria.

The public hearing was opened at 6:40 pm then closed as no comments were made.

On a motion by Commissioner Conaway, seconded by Commissioner Turner, Ordinance 2024-O11 amending Section 152.073 Moratoria was unanimously approved.

*UDO Text Amendment to Section 152.196 Notes to the Table of Area, Yard, and Height Requirements*

Planner Brehmer reviewed that a text amendment was proposed to UDO Section 152.196 Notes to the Table of Area, Yard, and Height Requirements, (F) Note 6, to outline when a zoning permit and building permit was needed for new accessory structures. Note 6 will give new accessory structures specific guidelines added to differentiate when a building permit was required, or if a zoning permit was required for any new accessory structure. Per NC Building Code, an accessory structure that was less than 12 feet in any direction did not require a building permit, but still needed to be inspected for proper tie downs due to the wind zone.

The public hearing was opened at 6:44 pm then closed as no comments were made.

On a motion by Commissioners Turner, seconded by Commissioner Conaway, Ordinance 2024-O12 amending Section 152.196 Notes to the Table of Area, Yard, and Height Requirements, (F) Note 6 was unanimously approved.

*UDO Text Amendment to Section 152.445 Coastal High Hazard Areas (Zone VE)*

Planner Brehmer reviewed that a text amendment was proposed to UDO Section 152.445 Coastal High Hazard Areas (Zone VE) (Q) in the Flood Damage Prevention Ordinance because it was not feasible and needed to be deleted. The goal in deleting UDO Section 152.445 (Q) was to both follow FEMA guidelines more accurately as well as give homeowners/business owners more options when it came to outlets and switches being installed in a flood zone.

The public hearing was opened at 6:48 pm then closed as no comments were made.

On a motion by Commissioner Turner, seconded by Commissioner Conaway, Ordinance 2024-O13 amending Section 152.445 Coastal High Hazard Areas (Zone VE) to delete (Q) was unanimously approved.

### **Business Non-Consent**

*Town Code Amendment to Chapter 93: Streets and Sidewalks, Section 93.007 Playing Games in Streets*

Planner Brehmer reviewed that after direction given by the Board of Commissioners and Town Manager, due to enforcement capabilities, a text amendment was proposed to remove Town Code Section 93.007 Playing Games in Street. Allowing this activity to take place in Town Limits.

In response to inquiries from the board, items are not permitted to be erected in the right-of-way in front of residences.

On a motion by Commissioner Conaway, seconded by Commissioner Eckendorf, Ordinance 2024-O14 amending Town Code Chapter 93: Streets and Sidewalks, to delete Section 93.007 Playing Games in Streets was unanimously approved.

*Town Code Amendment to Section 150.45 Permits Required*

Planner Brehmer reviewed that a text amendment was proposed to Town Code Section 150.45 Permits Required to have a zoning permit added to the list of permits required for any new development.

In response to inquiries from the board the following was clarified by Planner Brehmer and/or Attorney Rasberry.

- The fees for zoning permits were separate from building permit fees.
- A building permit was for state code adherence where a zoning permit was for town code adherence.
- Zoning is focused on use.

On a motion by Commissioner Eckendorf, seconded by Commissioner Turner, Ordinance 2024-O15 amending Town Code Section 150.45 Permits Required were unanimously approved.

*Special Event Applications – Fee Waiver Request*

Parks & Recreation Director Stanley reviewed two special event applications that were submitted to Parks and Recreation requesting a waiver of fees.

Little Pink Houses of Hope, a nonprofit organization requested a fee waiver for their upcoming event supporting breast cancer patients on August 21.

On a motion by Commissioner Turner, seconded by Commissioner Conaway, with unanimous approval, the fees for Little Pink Houses of Hope event were waived.

Swansboro Historical Society (SHA)-SHA, a non-profit organization requested a fee waiver for use of the Assembly Room/Old Town Hall for several events to include their quarterly evening programs, occasional planning sessions, and daytime seminars.

Amelia Dees-Killette, President of the SHA, shared with the board the SHA's efforts in preserving local history and maintaining the Emerton School Building(Old Town Hall), home to the Swansboro Area Heritage Center. She requested a waiver for building use fees, explaining that additional fees would impact SHA's budget. She also extended an invitation to board members for SHA's August 21 event on "Historic Boats of Swansboro."

Joan Gertzen, a resident of 215 Marsh Hen Court for 20 years, emphasized the importance of the local history museum to the community. She highlighted that the museum originated from a need for historical awareness, providing unique artifacts and exhibits that cannot be found elsewhere. Joan noted that the museum was primarily funded through grants rather than town support, reflecting the community's commitment to its establishment. She urged the board to continue allowing the museum to operate and to consider waving the fees.

Board members shared that they support this waiver short term, not long term.

On a motion by Commissioner Turner, seconded by Commissioner Conaway, with unanimous approval, the fees for the Swansboro Historical Society (SHA)-SHA to use the Assembly Room/Old Town Hall for events were waived.

#### *Development Agreement*

Manager Barlow reviewed that the proposed Development Agreement was a joint effort between the Town of Swansboro and Jacksonville Onslow Economic Development Partnership (JOED). Specifically, the agreement described the future acquisition and development of approximately 30 acres of undeveloped land located at 1476 W. Corbett Ave. The Town would be the recipient of any grants and manager of funds received.

Melissa Anderson, chair of the JOED board, emphasized the economic benefits, highlighting job creation and a stronger tax base.

On a motion by Commissioner Eckendorf, seconded by Mayor Pro Tem Justice, the development agreement with JOED was approved unanimously as presented.

#### *Bicentennial Park Dockwalk Extension Project*

Manager Barlow reviewed that an RFP was posted and advertised for construction of a fixed timber platform, floating dock, and new floating slips at the existing waterfront access for the Bicentennial Park Dockwalk Extension Project. Sealed bids were opened on August 6, 2024, and six contractors submitted bids. The lowest bid received was \$233,200, significantly over grant funds available. Additionally, the project deadline had been



extended multiple times since its 2020 award, with the latest extension granted until April 1, 2025. In an effort to keep this project moving, 3 options were proposed to proceed with the project, and Manager Barlow shared that he recommended the first option.

1. Authorize the Town Manger to work with the project Engineer and the lowest responsible bidder, Carteret Marine, in an effort to modify the design in a manner that brings the project within budget or closer to budget. Appropriate fund balance to make up the difference.
2. Appropriate Fund Balance to make up the difference between grant funds and actual construction costs without modification to the design.
3. Don't perform the project and return the grant funds.

In response to an inquiry from the board, Attorney Rasberry clarified that by statute, the town may only negotiate with the lowest bidder once bids exceed available funds. Rebidding would be permitted only if the town rejected all initial bids.

The board allowed for comments from the public, the following individuals spoke.

Randy Swanson, owner of the property where the Dockwalk was to be constructed, urged the board to preserve the projects quality emphasizing that the project will create curb appeal for downtown.

Melissa Anderson shared that she felt the board should rebid the project and felt it would only take 3 weeks to complete construction.

After discussion the board recommended seeking additional funding from the Tourism Development Authority (TDA), and the board agreed to incorporate this request into Option 1. If attempts to bring the project closer to budget were not successful within a month, the project could be brought back for the board to consider the rebid process.

#### *Carpet Replacement in the Community Room and Assembly Room*

Manager Barlow reviewed that the carpet in both the Community Room in Town Hall and the Assembly Room in Emmerton School were in dire need of replacement. The previous year's Budget (FY23/24) included \$9,000 for the replacement of the carpet in the Community Room. Since that project was not performed those funds rolled into Fund Balance. It was estimated that a budget of \$20,000 would be sufficient. The current flooring material was carpet, and staff would like to investigate the option of installing vinyl wood flooring which was durable and maybe less expensive.

The board authorized the town manager to seek bids and report back with options and costs. Acoustic considerations were raised, noting that a hard flooring option could impact sound quality in the room.

### *Future Agenda Topics*

Future agenda items were shared for visibility and comments. In addition, an opportunity was provided for the board to introduce items of interest and subsequent direction for placement on future agendas. The following items were addressed:

- Schedule the Beautification Committee creation
- Regulation consideration for limiting Vape shops in Swansboro limits

### **Items Moved from Consent**

#### **Public Comment**

Melinda Bridges of 656 Aria Lane in Hubert, shared that she was a member of the Swansboro Pickleball league which consisted of 200+ members. She shared that she was informed that only \$1,000 was budgeted for pickleball but to be in the league there was a membership fee, and annually that equated to approximately \$10,000. She inquired how the league could get more funds.

Parks & Recreation Director Stanley clarified that currently, the town provides balls and nets, which wear out quickly. When the league was formed other areas were researched and most had a 50/50 type system.

Mayor Davis shared with Mrs. Bridges that a dedicated pickleball court was being planned with \$150,000 already allocated.

The board decided to refer this matter to the Recreation Committee for further review and recommendations.

Rachel Lovejoy of Charleston Park inquired about potential to establish safe pedestrian access across Highway 24. Town staff confirmed ongoing discussions with the Department of Transportation, with specific locations under consideration.

#### **Manager's Comments**

Manager Barlow shared that the recent tropical storm did not have any negative impact around town, and there was very little street flooding.

Parks & Recreation Director Stanley provided an update on the splash pad renovation project, with weather delays pushing some aspects of the project back. Work completed included concrete and paver installations, while seating wall construction and footings for additional features were pending.

#### **Board Comments**

Board members commended staff for their hard work and welcomed community involvement, expressing appreciation for the increased attendance.

Commissioner Eckendorf shared that he was hopeful that the TDA could provide some monetary support to the Dockwalk project and suggested a 60/40 split. Additionally, he shared that with the upcoming election it was possible Mayor Davis would be going to the County Commissioners and the board would need to pick a new mayor.

Mayor Davis shared his appreciation to the fire department for their quick response to a to a downtown fire incident, and to the Public Works team for their efficiency in clearing and repairing affected areas, allowing local businesses to reopen swiftly after the tropical storm.

### **Closed Session**

On a motion by Commissioner Eckendorf, seconded by Commissioner Turner with unanimous approval the board entered closed session at 8:19 pm pursuant to NCGS 143-318.11 (a) (3) to consult with the attorney employed or retained by the public body in order to preserve the attorney-client privilege, and the remaining below consent items were approved unanimously, and (6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

Pursuant to a motion duly made and seconded in closed session the board returned to open session.

### **Adjournment**

On a motion by Commissioner Eckendorf, seconded by Commissioner Turner, the meeting adjourned at 9:18 pm.

**Town of Swansboro**  
**Board of Commissioners**  
**August 27, 2024, Regular Meeting Minutes**

In attendance: Mayor John Davis, Mayor Pro Tem William Justice, Commissioner Jeffrey Conaway, Commissioner Pat Turner, Commissioner Joseph Brown, and Commissioner Douglas Eckendorf.

\*\*\*\*\*

**Call to Order/Opening Prayer/Pledge**

The meeting was called to order at 6:00 pm. Mayor Davis led the Pledge of Allegiance.

**Public Comment**

Citizens were offered an opportunity to address the Board regarding items listed on the agenda. No comments were made.

**Adoption of Agenda and Consent Items**

On a motion by Commissioner Turner, seconded by Commissioner Conaway, the agenda, as amended to add the purchase of a building inspector vehicle and closed session pursuant to North Carolina General Statute 143-318.11 (a)(5) to discuss negotiating the price or other terms for the acquisition of real property, and the remaining consent items below were approved unanimously.

- May 14, 2024, Regular Meeting Minutes
- May 14, 2024, Closed Session Minutes

**Appointments/Recognitions/Presentations**

*True Justice International Community Presentation*

Tracy Kline, Executive Director of True Justice International, presented on the widespread issue of human trafficking, particularly in Eastern North Carolina, emphasizing that trafficking often involved coercion from close contacts rather than strangers. True Justice, a nonprofit, supports survivors through long-term recovery programs focused on trauma and addiction, rather than only emergency shelter. The organization collaborates with law enforcement, conducts outreach in vulnerable locations, and offers community education on recognizing trafficking signs, particularly through school programs. Ms. Kline share that the best way to helps would be through donations, volunteering, and attending events like the annual Oyster Roast which would be held on November 22<sup>nd</sup> and extended an invitation to all who would like to attend.

*Board Appointments - Swansboro Swimming Pool Committee*

Clerk Fender reviewed that at its August 13, 2024, meeting, the Board approved Resolution 2024-R8 to create the Swansboro Swimming Pool Committee and appointed

Matthew Prane, Scott Evans and Brooks Barnett. It was requested that the committee include Swansboro residents, and Mr. Prane was directed to select additional members that live in Town. Mr. Prane had selected Renee Cassiano and Laura Grimes-Holland.

On a motion by Commissioner Eckendorf, seconded by Commissioner Turner, the recommended members were appointed unanimously.

**Public Hearing**

*UDO Text Amendment to Section 152. 179 Table of Permitted/Special Uses and Section 152.212 Use Standards*

Planner Rebecca Brehmer reviewed that after a recent Board of Adjustment meeting for an appeal to an administrative decision involving boat/boat trailer storage on an empty residential lot, Staff was directed by the Board of Commissioners to present a text amendment to allow boat/boat trailer storage in Town.

The proposed text amendments included adding “boat/boat Trailer” storage to the Table of Permitted/Specials Uses as a “Use Standard” which had additional criteria for the use outlined in Section 152.212 Use Standards. All boat/boat Trailer Storage would be permitted in all zoning districts, if the use meets the criteria outlined in the use standards. For B1 and M1 zone districts, the proposed addition to the Table of Permitted/Special Uses will be permitted use, as it is already allowed in our ordinance as a use. The Planning Board unanimously recommended approval with the suggestion of rewording (Y) Use Boat/Boat Trailer Storage, part (e) from Section 152.212 Use Standards to be less restrictive at their August 6, 2024, regular meeting.

The Board discussed the appropriateness of the 25% storage limit, with one member expressing concern it might be too large, while others felt it would suffice due to personal use restrictions.

The public hearing was opened at 6:52 pm, the following individuals spoke.

Doug Rogers of 406 Elm Street expressed his support for allowing boat storage without fencing or screening, sharing that he would rather see boats & trailers than fencing.

Gerald Lissette of 313 Water Street shared that he also supported removing Section E, advocating for property rights.

Tom Peratti of 708 Meeting Park Lane also supported eliminating the screening requirement entirely and suggested adding language to ensure properties remain well-maintained and orderly.

The public hearing was closed at 6:56 pm.

On a motion by Commissioner Eckendorf, seconded by Commissioner Brown, Ordinance 2024-O16 amending Section 152.179 Table of Permitted/Special Uses and Section 152.212 Use Standards was approved unanimously with the provision of changing (E) to read “The property is to be well-maintained in a neat and clean condition, free of overgrown grass, weeds, brush, and debris”.

### **Business Non-Consent**

#### *Carpet Replacement in the Community Room and Assembly Room*

Manager Barlow reviewed that at the August 13, 2024, meeting, the Board directed staff to seek estimates for replacement of the carpet in both the Community Room in Town Hall and the Assembly Room in Emmerton School. Estimates were requested for both high-end and low-end products, and the proposals received ranged from approximately \$9,000 to \$50,000. He recommended opting for carpet tiles from Watkins Flooring Company due to their ease of replacement and sound-dampening qualities, recommending three additional cases for replacement needs. The high-end tiles were noted to be durable, lasting an estimated 15-20 years with proper maintenance.

Public Works Director Bates shared that he would select a color that would improve the appearance of the rooms and would also ensure that the carpet would be cleaned regularly and kept in good repair.

On a motion by Commissioner Turner, seconded by Commissioner Eckendorf, the appropriation of the necessary funds from fund balance for the replacement of the flooring material in both facilities, resulting in a budget amendment to be provided at the next meeting was unanimously approved.

#### *Sidewalk Priority Project List*

Manager Barlow reviewed that in 2020 a sidewalk project priority list was developed. In all, 9 areas were selected to focus on the construction of new sidewalks and four of which had been completed. A partnership with NCDOT and JUMPO facilitated the design and construction of several of the priority areas. Due to easement acquisition difficulties and project funding no other projects were performed. The board had allocated \$500,000 for the remaining five projects and Mr. Barlow shared that there could be potential federal funding with an 80-20 split, suggesting that this funding source could extend the town’s budget further. The board decided to shift priorities, and reorganized the priorities as follows and agreed to authorize staff to seek engineering services for the sidewalk projects, focusing on the updated priorities.

- Priority 1 – Location: Main St. Extension from One Harbor Church to Old Hammock Road, then Old Hammock Road to High Speed Gear

- Priority 2 – Location: Southside Hwy 24 from Walmart to Queens Creek Road Intersection, then Intersection to Swansboro High School/Queens Creek Elementary School entrance
- Priority 3 – Location: Hammocks Beach Road from Moore’s BBQ to Park Place, and Soccer Association to Cormorant Drive
- Priority 4 – Location: Pineland Drive parcel to connect to the existing sidewalk at the Cottages
- Priority 5 – Location: Gaps on Northside of Hwy 24 from Old Hammocks Road to Downtown

#### *Vehicle Purchase for Building Inspections*

Manager Barlow reviewed that the building inspector's truck needed replacement. Sanders Ford offered a Ford Maverick at the state contract price of \$28,892.37.

On a motion by Commissioner Eckendorf, seconded by Commissioner Turner, purchase of a Ford Maverick at the state contract price of \$28,892.37, resulting in a budget amendment to be provided at the next meeting was unanimously approved.

#### *Monthly Financial Report as of July 31, 2024*

Finance Director Johnson reviewed details from the monthly financial report, attached herein with the power point presentation of the meeting.

In response to inquiries from the board, Mrs. Johnson clarified the following.

- A deficient would show until the ad valorem taxes begin coming in around November.
- Governing Body and Admin Services departments appeared high due to annual dues that get paid at the start of the Fiscal Year
- Stormwater billing had been sent and a bill notifications sent via email, explaining that these were notifications of availability in the online portal rather than the invoices themselves. The online notification feature was temporarily disabled to address any confusion.
- EOC/PSB Funds and Sidewalk funds were together in the TD Bank account but delineated.

#### *Future Agenda Topics*

Future agenda items were shared for visibility and comments. In addition, an opportunity was provided for the board to introduce items of interest and subsequent direction for placement on future agendas. There were no new agenda items introduced.

**Public Comment**

Citizens were offered an opportunity to address the Board regarding items not listed on the agenda. No comments were made.

**Manager's Comments**

Manager Barlow shared that a meeting had been held with the engineer and contractor to explore redesign options and alternative materials to lower costs for the Dockwalk Project. A final estimate was not yet available, but staff expected it by the next meeting.

The new digital sign was estimated to be installed and operational around September 11<sup>th</sup>.

**Board Comments**

Board members expressed gratitude to attendees, encouraging continued participation to strengthen community involvement and communication. Staff were commended for their dedication and the positive work environment they fostered.

Mayor Pro Tem Justice shared that he had concerns about the Dockwalk project specifically at the point where it crossed under the bridge. That area was not passable during high tide and sometimes became slippery.

Commissioner Eckendorf shared that he felt some police presence was needed at the High School to help with the traffic issues.

Mayor Davis shared that he had been working with the school on some changes that could help with the traffic issues at the school

**Closed Session**

On a motion by Commissioner Eckendorf, seconded by Commissioner Turner with unanimous approval the board entered closed session at 7:48 pm pursuant to NCGS 138.143-11 (a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege, and (5) to discuss negotiating the price or other terms for the acquisition of real property, and the remaining consent items below were approved unanimously.

Pursuant to a motion duly made and seconded in closed session the board returned to open session.

**Adjournment**

On a motion by Commissioner Conaway, seconded by Commissioner Turner, the meeting adjourned at 8:36 pm.



BEFORE THE TOWN OF SWANSBORO BOARD OF COMMISSIONERS  
IN RE: SPECIAL USE PERMIT APPLICATION OF PRO FORMA WARD FARM LOT 8,  
LLC, 1.21 ACRES, WARD FARM TOWN CENTER; 200 WARD ROAD

This case concerns an application for a Special Use Permit brought by Pro Forma Ward Farm Lot 8, LLC, under Section 152.210 of the Zoning Ordinance of the Town of Swansboro. The matter came before the Town Board of Commissioners on October 22, 2024, at a quasi-judicial evidentiary hearing, pursuant to Chapter 160D-405 of the N.C. General Statutes.

Having considered the Application and supporting materials, all other material and statements offered by those testifying in this matter, including the report of the Town’s Planning staff, the Board of Commissioners hereby makes the following:

FINDINGS OF FACT

1. This matter represents the consideration of an application for a Special Use Permit (SUP) to construct 16 townhouse dwellings, to be known as “Brezza Lofts” on Lot 8 of the Ward Farm Town Center. The property is a 1.21 acre parcel, and is zoned B-3, *Traditional Business*. Townhome dwellings are allowed in the B-3 zoning district, subject to the approval of a Special Use Permit by the Board of Commissioners.

2. Town Code Section 152.210 sets forth four criteria for granting or denying an SUP. The Board of Commissioners may approve an application for an SUP upon finding that:

(B)(1) The special use is allowed pursuant to Sec. 152.210 and meets all the required conditions and specifications, including, without limitation, those set out in Sec. 152.211; and

- (2) The special use will not materially endanger the public health or safety if located where proposed and developed according to plan as submitted and approved; and
- (3) The special use will not substantially injure the value of adjoining or abutting property, or the special use is a public necessity; and
- (4) The location and character of the special use, if developed according to the plan as submitted and approved, will be in harmony with the land in which it is located. The special use shall demonstrate conformance with the Land Use Plan or other plan in effect at the time and address impacts of the project.
3. Mr. John Plageman, AIA, testified as fact witness in the case to further explain the proposed project and to respond to questions.
  4. Mrs. Suzanne Nelson, MAI, after having been qualified as an expert in the field of real estate valuation, testified with respect to her appraisal of the subject property. Mrs. Nelson's written appraisal report was included in the submitted Application. As noted in the report, and as supported by Mrs. Nelson's testimony, the proposed special use will not injure the value of adjoining or abutting property.
  5. As indicated in the official staff report, and as supported by the testimony of Ms. Rebecca Brehmer, the Town's Planning Director, the proposed special use meets all required conditions, specifications and requirements of the Town, including those in the UDO.
  6. As indicated in the staff report, and as supported by the testimony of Ms. Brehmer, the proposed site plan for the townhouse development was verified by a professional engineer, reviewed by the Town's Technical Review Committee, and confirmed to meet all fire, building code, and other requirements.
  7. As indicated in the Application and Staff Report and supported by testimony of witnesses for the Applicant, the proposed development is consistent with the Land Use Plan, which identifies the Ward Farm area as "Traditional Town Center", calling for a mix of residential, commercial and civic uses, and recognizing Ward Farm as an extension of the Town's downtown area.

Based upon the evidence contained in the Application and Staff Report, testimonial and other evidence received at the evidentiary hearing, and the foregoing Findings of Fact, the Board of Commissioners hereby enter the following:

#### CONCLUSIONS OF LAW

1. The Applicant's burden is to show that the criteria listed in the Town's Code of Ordinances, Section 152.210 Procedure for Special Use Permits have been satisfied.
2. The Applicant has produced competent, material, and substantial evidence that the proposed special use has satisfied these Code requirements.

DECISION

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, and upon a vote of 4 in favor and 1 opposed, the Board of Commissioners of the Town of Swansboro has determined, and rules, that the requested Special Use Permit is hereby Approved.

This \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
John Davis, Mayor

Attest:

\_\_\_\_\_  
Alissa Fender, Town Clerk



# Board of Commissioners Meeting Agenda Item Submittal

---

Item To Be Considered: **Budget Ordinance Amendment #2025-4**

Board Meeting Date: **November 12, 2024**

Prepared By: **Sonia Johnson – Finance Director**

---

**Overview:** A Budget Ordinance Amendment is requested for multiple departments.

1. **Police Department:** First Baptist Church donated \$4,909 to the department for the purchase of 15 sets of duty gear.

*Source of Funds: Donations-Police*

2. **Fire Department:** First Baptist Church donated \$5,000 to the department for the purchase of drafting valves for the fire apparatus.

*Source of Funds: Donations-Fire*

3. **Admin Services:** Staff received a quote from American Legal for codification of the UDO amendments and the cost for editing and formatting this update is \$2,500.

*Source of funds: Appropriated Fund Balance*

**Background Attachment(s):** Budget Ordinance Amendment #2025-4

**Recommended Action:** Motion to approve Budget Ordinance Amendment #2025-4

---

**Action:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR FY 24/25**

**BUDGET ORDINANCE AMENDMENT #2025-4**

**BE IT ORDAINED** by the Board of Commissioners of the Town of Swansboro that the following amendment be made to the annual budget ordinance for fiscal year ending June 30, 2025:

Section 1. To amend the General Fund budget, the following changes are to be made:

<u>Appropriations</u>	<u>Increase</u>
Police Department	\$4,909
Fire Department	\$5,000
Admin Services	\$2,500

<u>Revenues</u>	<u>Increase</u>
Appropriated Fund Balance-General Fund	\$2,500
Donations-Police	\$4,909
Donations-Fire	\$5,000

Section 2. Copies of this budget amendment shall be furnished to the Town Clerk, the Budget Officer, and the Finance Director, to carry out their duties.

Adopted by the Board of Commissioners in regular session, November 12, 2024.

\_\_\_\_\_  
John Davis, Mayor

Attest:

\_\_\_\_\_  
Alissa Fender, Town Clerk



# Board of Commissioners Meeting Agenda Item Submittal

---

Item To Be Considered: **Tax Refund Request**

Board Meeting Date: **November 12, 2024**

Prepared By: **Sonia Johnson - Finance Director**

---

**Overview:** The Onslow County Tax Collector recommends refunds of the below listed taxes totaling \$250.20

**Vehicle Tax**

Henson, Rachelle E.	\$23.70	Tag Surrender
Pearce, Donnie G.	\$27.00	Tag Surrender
Yingst, William Lester III & Deborah M.	\$35.53	Tag Surrender
Cooke, Michelle L. & Brian J.	\$10.85	Sold/Traded
Dunn, John C.	\$21.40	Tag Surrender
Jayne, David M	\$43.75	Military
Ringo, Louisa M.	\$51.97	Tag Surrender
Climie, Eric J.	\$29.65	Tag Surrender
Floyd, Boyce Wayne Jr.	\$2.99	Tag Surrender
Hayden, Brandon A.	\$3.36	Military

**Recommended Action:** Motion to approve refunds as recommended by Onslow County.

---

**Action:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



# Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Public Street and Sidewalk Acceptance Request- Shadow Creek Estates**

Board Meeting Date: **November 12, 2024**

Prepared By: **Rebecca Brehmer, CFM, CZO – Town Planner**

**Overview:** Tidewater Associates, Inc, on behalf of One Harbor Church, Inc, is requesting acceptance of public streets and sidewalks for Shadow Creek Estates subdivision. This request includes all streets within the subdivision, Shadowcreek Drive, Big Pine Court, Diamond Ridge Court, Hibiscus Court, Marshview Court, and sidewalks.

After concerns from the Board at their May 28, 2024, regular meeting, Tidewater Associates, Inc is back with updates for acceptance of public streets and sidewalks for Shadow Creek Estates. As provided in the request for acceptance letter, the main concern of the Board was the condition of the stormwater system and asked for Tidewater to come back with an update on functionality and maintenance on that as well as certification of stormwater system. During the process of the stormwater system getting transferred to the HOA of Shadow Creek Estates, a field inspection and checklist was provided by NCDEQ in June of 2024. Tidewater completed all of the items on this checklist allowing them to certify the stormwater system as compliant with NCDEQ and the Public Works Director met onsite to review the updates as well.

As provided at the previous request for acceptance, in 2017, in a letter verified by Crystal Coast Engineering, the developer has completed the required improvements and repairs for the subdivision streets. In April of 2024, the Town’s consultant engineer, Ron Cullipher, reviewed the cost opinion for calculation of a warranty guarantee and verified that the numbers appear to adequately represent present day costs and that he would recommend approval, this cost opinion remains the same. Additionally, One Harbor Church has submitted a letter verifying a warranty guarantee in the amount of \$45,737.60, this is a 10% warranty as required by the Town Unified Development Ordinance and outlined in the attached cost opinion and will remain on file one year following the Board’s acceptance of the Public Street and Sidewalks.

**Background Attachment(s):**

1. Request for acceptance letter
2. Shadow Creek Estates recorded plat
3. Cost opinion for calculation of warranty
4. 2017 Shadow Creek Street Certification
5. Updated Shadow Creek Stormwater Certification
6. NCDEQ Field Inspection Expert and photos
7. Resolution 2024- R10

**Recommended Action:** Motion to approve or deny Resolution 2024-R10 to accept public streets and sidewalks in Shadow Creek Estates subdivision.

**Action:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**TIDEWATER ASSOCIATES, INC.**  
 ENGINEERS • SURVEYORS • PLANNERS  
**CEDAR POINT, NORTH CAROLINA**

**VIA EMAIL & HAND DELIVERY**

Mrs. Rebecca Brehmer  
 Town Planner, Town of Swansboro  
 601 West Corbett Avenue  
 Swansboro, NC 28584

October 22, 2024

RE: Request for Acceptance  
 Of Public Streets & Sidewalks  
**Shadow Creek Estates**  
 Swansboro, North Carolina

Dear Mrs. Brehmer:

On behalf of One Harbor Church, Inc, this letter is to request Acceptance of Public Streets and Sidewalks for the above subdivision. This request includes all streets within the subdivision, Shadow Creek Drive, Big Pine Court, Diamond Ridge Court, Hibiscus Court, Marshview Court and sidewalks. The Developer has completed the required improvements and repairs for the subdivision.

Street and sidewalk maintenance items needing attention were coordinated with the Town of Swansboro Public Works Director, with all items being completed and approved as of August 10, 2023. A field inspection by NCDEQ on June 20, 2024, noted a few maintenance items of the stormwater system needing attention. As of October 3, 2024, these items have been addressed allowing our firm to certify the stormwater system as compliant with NCDEQ Stormwater Permit SW8 070551. Additionally, the Town of Swansboro Public Works Director and I met onsite October 8, 2024, to review the improvements that have been completed as required by the NCDEQ inspection.

The following items have been included with this request

- Final Plat - Shadow Creek Estates, BK 72 PG 203-203A
- Sealed Cost Opinion - Calculation of Warranty
- First Citizens Bank – Letter of Comfort for Credit
- Original Street Certification – David K. Newsom, PE, Crystal Coast Engineering, PA
- Field Inspection - NCDEQ
- Stormwater Certification -Jonathan L. McDaniel, PE, Tidewater Associates, Inc.

604E Cedar Point Blvd. | Cedar Point, NC 28584 | (252) 393-6101

Firm License Number F-0108 | [www.tidewaterenc.com](http://www.tidewaterenc.com)



Mrs. Rebecca Brehmer  
Shadow Creek Estates  
October 14, 2024

Page 2 of 2

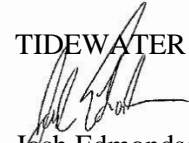
Item VI - b.

➤ Pictures of Stormwater Improvements

As always, we appreciate the opportunity to work with the Town of Swansboro. If you have any questions or need any additional information to get this request before the Town Commissioners for final acceptance, please advise.

Sincerely,

TIDEWATER ASSOCIATES, INC.



Josh Edmondson  
Staff Planner

xc: Isaac Hopkins, One Harbor Church  
Shadow Creek Estates, HOA

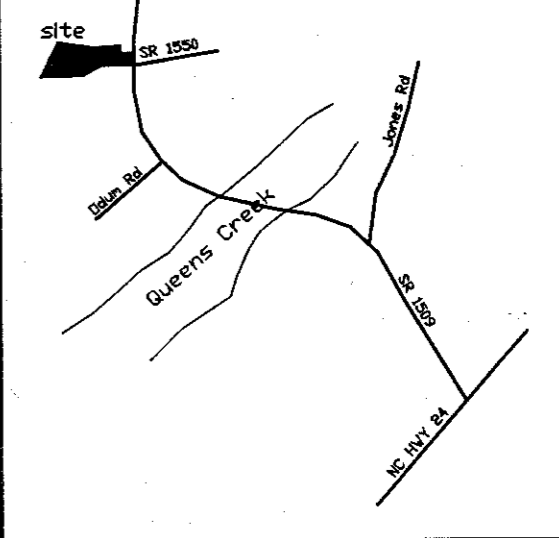
JME\Projects\ShadowCreek\StreetDedication.RequestforAcceptance.10.14.24

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	25.00'	39.27'	35.36'	S 47°24'28" W	90°00'00"
C2	25.00'	39.27'	35.36'	N 42°35'32" E	90°00'00"
C3	330.00'	27.20'	27.19'	N 04°46'08" E	4°43'20"
C4	330.00'	74.61'	74.45'	N 13°36'26" E	12°57'16"
C5	25.00'	36.71'	33.50'	S 21°58'16" E	84°08'40"
C6	25.00'	20.32'	19.76'	S 87°20'38" E	46°34'03"
C7	55.00'	56.86'	54.36'	N 81°00'35" W	59°14'09"
C8	55.00'	32.44'	31.97'	N 34°29'47" W	33°47'27"
C9	55.00'	54.41'	52.22'	N 10°44'30" E	56°41'07"
C10	55.00'	41.22'	40.26'	N 60°33'16" E	42°56'25"
C11	55.00'	77.26'	71.06'	S 57°44'02" E	80°28'58"
C12	25.00'	20.32'	19.76'	N 40°46'35" W	46°34'03"
C13	25.00'	47.28'	45.33'	S 61°48'59" W	108°19'03"
C14	490.86'	124.53'	124.30'	N 00°21'16" W	14°32'09"
C15	490.86'	120.26'	119.96'	S 13°55'56" E	14°02'15"
C16	490.86'	155.90'	155.25'	S 30°02'58" E	18°11'51"
C17	25.00'	34.20'	31.59'	S 78°20'02" E	78°22'16"
C18	360.00'	73.58'	73.46'	S 63°49'35" W	11°42'40"
C19	360.00'	92.20'	91.94'	S 77°01'07" W	14°40'25"
C20	360.00'	48.35'	48.31'	S 88°12'11" W	74°14'37"
C21	25.00'	20.32'	19.76'	N 68°46'01" E	46°34'03"
C22	55.00'	53.16'	51.12'	S 73°10'23" W	55°22'46"
C23	55.00'	48.07'	46.56'	N 54°05'52" W	50°04'44"
C24	55.00'	38.70'	37.81'	N 08°54'01" W	40°18'58"
C25	55.00'	38.95'	38.14'	N 31°32'50" E	40°34'44"
C26	55.00'	83.30'	78.57'	S 84°48'22" E	86°45'27"
C27	25.00'	20.32'	19.76'	N 64°39'58" W	46°34'03"
C28	300.00'	149.57'	148.02'	S 77°46'05" W	28°33'55"
C29	25.00'	48.00'	40.96'	S 08°32'23" W	110°00'24"
C30	386.54'	85.59'	85.42'	N 40°07'13" W	12°41'13"
C31	386.54'	143.57'	142.75'	N 23°08'10" W	21°16'52"
C32	25.00'	33.51'	31.06'	S 50°54'00" E	76°48'51"
C33	25.00'	7.23'	7.20'	N 82°24'44" E	16°34'07"
C34	25.00'	13.09'	12.94'	N 59°07'39" E	29°59'56"
C35	55.00'	79.10'	72.46'	S 85°19'51" W	82°24'20"
C36	55.00'	32.43'	31.96'	N 36°34'33" W	33°46'53"
C37	55.00'	47.91'	46.41'	N 05°16'05" E	49°54'21"
C38	55.00'	31.60'	31.17'	N 46°40'46" E	37°55'01"
C39	55.00'	64.54'	60.90'	S 83°14'47" E	67°13'53"
C40	55.00'	6.87'	6.81'	N 01°10'02" E	6°53'38"
C41	25.00'	20.32'	19.76'	N 66°01'14" W	46°34'03"
C42	25.00'	38.29'	34.66'	S 46°48'56" W	87°45'36"
C43	386.54'	95.24'	95.00'	N 09°59'39" E	14°07'01"
C44	270.00'	86.87'	86.60'	N 11°38'09" E	18°27'22"
C45	550.86'	92.99'	92.87'	S 18°06'28" W	5°30'43"
C46	550.86'	57.00'	56.88'	S 10°18'26" W	10°08'13"
C47	550.86'	81.43'	81.36'	S 01°01'40" W	8°28'12"
C48	550.86'	80.52'	80.45'	S 07°23'41" E	8°22'30"
C49	550.86'	96.41'	96.29'	S 16°35'47" E	10°01'41"
C50	550.86'	100.67'	100.53'	S 26°50'45" E	10°28'15"
C51	550.86'	115.64'	115.43'	S 38°05'43" E	12°01'42"
C52	550.86'	22.63'	22.63'	S 45°17'12" E	2°21'15"
C53	326.54'	65.77'	65.65'	N 40°41'11" W	11°32'17"
C54	326.54'	131.04'	130.17'	N 23°25'45" W	22°59'35"
C55	326.54'	122.20'	121.49'	N 01°12'43" W	21°26'28"
C56	326.54'	42.99'	42.96'	N 13°16'50" E	7°32'38"

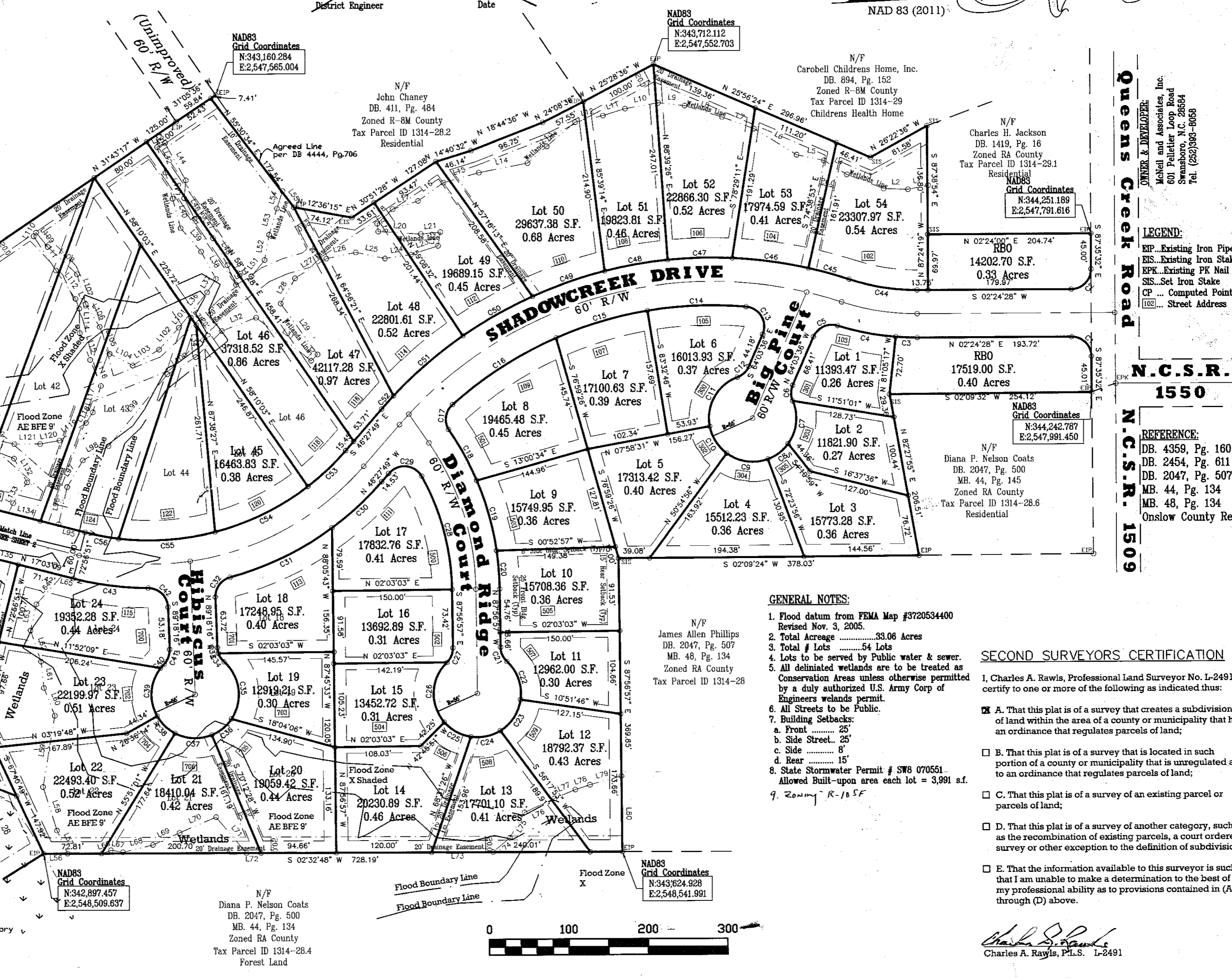
**CERTIFICATE OF OWNERSHIP and DEDICATION**  
 I (we) hereby certify that I am (we are) the owner(s) of the property described herein, which property is located within the subdivision jurisdiction of the Town of Swansboro, that I (we) freely adopt this plan of subdivision and dedicate to public use all areas shown on this plan as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I (we) will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plan as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Board of Commissioners of the Town of Swansboro in the public interest.  
**McNeill + Associates, Inc.**  
*J.E. McNeill*  
 Owner *L.E. McNeill, President* Date *2/2/17*  
*Dominique O. Tice* Date *2/7/17*  
 (Notarized) *Dominique O. Tice*  
 Notary Public, North Carolina  
 My Commission Expires 10/18/2020

**CERTIFICATE OF SURVEY AND ACCURACY**  
 I, Charles A. Rawls, Professional Land Surveyor, hereby certify that this map was drawn under my supervision from an actual survey made under my supervision. That the ratio of precision as calculated by latitudes and departures is 1/10,000+, that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_ Page \_\_\_\_\_ that this map was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this *6th* day of *February* 2017.  
*Charles A. Rawls*  
 Charles A. Rawls, P.L.S. L-2491  
**Division of Highways District Engineer Certificate**  
 I hereby certify that the streets as depicted hereon are consistent with the requirements of the North Carolina Department of Transportation.  
 District Engineer \_\_\_\_\_ Date \_\_\_\_\_

**Certificate of Final Approval**  
 I hereby certify that the subdivision depicted hereon has been granted final approval pursuant to the Subdivision Ordinance of the Town of Swansboro subject to its being recorded in the Office of Register of Deeds within 60 days of the date below.  
*P. Scott Carr, ARP* Date *2-23-17*  
 Town Manager or Designee  
 I hereby certify that streets, utilities, and other improvements have been installed in an acceptable manner and according to specifications of the Town of Swansboro in the subdivision depicted hereon or that a performance bond or other sufficient surety in the amount of \$111,222.18 has been posted with the Town of Swansboro to assure completion of required improvements.  
*Adrian I. Hall* Date *2-27-17*  
 Administrator



LINE	BEARING	DISTANCE	Wetlands Line Table
L1	S 08°39'02" E	25.78'	L35 S 58°10'03" W 15.79'
L2	S 04°24'45" W	30.41'	L36 N 48°42'30" W 36.30'
L3	S 23°47'30" W	49.71'	L37 N 54°03'09" W 20.17'
L4	S 34°16'49" W	33.87'	L38 S 64°18'15" W 39.13'
L5	S 14°36'46" W	35.13'	L39 S 51°50'36" W 39.01'
L6	S 34°19'23" W	62.72'	L40 S 77°27'06" W 38.52'
L7	S 22°45'18" W	42.82'	L41 S 77°30'52" W 34.03'
L8	S 19°31'41" W	49.25'	L42 S 74°44'42" W 33.96'
L9	S 08°31'37" W	33.61'	L43 N 24°55'49" W 11.18'
L10	S 07°17'40" E	42.07'	L44 N 63°43'46" E 54.01'
L11	S 14°51'05" E	29.22'	L45 S 82°11'19" E 22.57'
L12	S 10°27'26" E	36.08'	L46 N 60°10'11" E 28.76'
L13	S 37°17'17" E	78.92'	L47 N 49°27'02" E 33.87'
L14	S 08°27'46" E	62.22'	L48 N 64°50'18" E 38.49'
L15	S 13°00'01" E	46.38'	L49 N 68°56'30" E 26.93'
L16	S 32°56'00" E	39.44'	L50 N 26°08'05" W 22.15'
L17	S 15°10'04" E	33.49'	L51 N 48°09'56" W 26.33'
L18	S 40°38'13" E	26.85'	L52 N 77°07'19" W 32.50'
L19	N 84°14'56" E	9.88'	L53 N 70°47'35" W 34.49'
L20	N 06°10'23" E	53.57'	L54 N 69°18'12" W 23.04'
L21	N 03°16'29" W	24.59'	L55 N 57°58'15" E 25.08'
L22	S 77°44'51" E	17.55'	
L23	S 15°28'50" E	36.93'	
L24	S 05°30'12" E	32.99'	
L25	S 14°28'55" W	37.44'	
L26	S 09°12'27" E	37.88'	
L27	S 29°24'27" E	46.62'	
L28	S 57°40'57" E	36.52'	
L29	N 56°53'21" E	79.30'	
L30	S 41°24'35" E	11.22'	
L31	S 40°51'52" W	89.02'	
L32	S 18°34'36" E	45.32'	
L33	S 42°18'24" E	40.92'	
L34	S 87°38'27" W	36.44'	



LINE	BEARING	DISTANCE	Wetlands Line Table
L66	N 16°50'59" W	12.55'	L56 N 02°32'45" E 30.17'
L67	N 12°34'59" E	15.32'	L57 S 68°11'34" W 32.07'
L68	N 10°56'21" W	38.95'	L58 S 75°00'05" W 57.59'
L69	N 21°52'27" W	36.75'	L59 N 77°52'18" W 91.12'
L70	N 20°36'54" W	49.96'	L60 S 71°24'32" W 37.57'
L71	N 52°29'53" E	59.35'	L61 S 86°31'48" W 33.47'
L72	N 02°32'48" E	18.32'	L62 S 73°58'52" W 41.20'
L73	N 02°32'48" E	77.15'	L63 N 74°22'11" W 33.96'
L74	N 37°40'13" W	27.93'	L64 N 45°21'19" W 48.46'
L75	N 57°01'37" W	36.81'	L65 N 17°03'09" E 14.54'
L76	N 22°27'20" W	41.54'	
L77	N 20°17'22" W	28.52'	
L78	N 15°26'51" W	19.38'	
L79	N 12°31'53" W	41.07'	
L80	S 87°56'57" E	95.16'	

Doc ID: 013833900001 Type: CRP  
 Recorded: 02/23/2017 at 02:42:03 PM  
 Fee Amt: \$42.00 Page 1 of 1  
 Onslow County, NC  
 Rebecca L. Pollard Reg. of Deeds  
 BK 72 Pg 203  
 Cabinet 0  
 Register of Deeds  
 State of North Carolina, County of Onslow  
 Review Officer of Onslow County,  
 certify that the map or plat to which this certification is affixed meets all statutory  
 requirements for recording.  
*Rhonda Huston* Date *2-23-17*  
 Review Officer

**Charles A. Rawls & Associates, PA**  
 1117 Hammock Beach Road, P.O. Box 1126, Swansboro, N.C. 28584  
 TELEPHONE: (910) 326-1408 FAX: (910) 326-1400 Firm # C-3886

**PROJECT:** Shadow Creek Estates  
 A Portion of Tract 1, Bernice T. Phillips Heirs, DB 4359, Pg. 160  
 Onslow County Tax Map # 1314-28.7, NC PIN # 534404630561000  
 Swansboro Township, Onslow County, North Carolina

**OWNER & DEVELOPER:**  
 Mebel and Associates, Inc.  
 601 Pelletier Loop Road  
 Swansboro, N.C. 28584  
 Tel: (252) 983-8058

**LEGEND:**  
 EIP... Existing Iron Pipe  
 EIS... Existing Iron Stake  
 EPK... Existing PK Nail  
 SIS... Set Iron Stake  
 CP... Computed Point  
 [Symbol]... Street Address

**N.C.S.R. 1550**  
**REFERENCE:**  
 DB. 4359, Pg. 160  
 DB. 2454, Pg. 611  
 DB. 2047, Pg. 507  
 MB. 44, Pg. 134  
 MB. 48, Pg. 134  
 Onslow County Reg.

**SECOND SURVEYORS CERTIFICATION**  
 I, Charles A. Rawls, Professional Land Surveyor No. L-2491, certify to one or more of the following as indicated thus:  
 A. That this plat is of a survey that creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;  
 B. That this plat is of a survey that is located in such portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;  
 C. That this plat is of a survey of an existing parcel or parcels of land;  
 D. That this plat is of a survey of another category, such as the recombination of existing parcels, a court ordered survey or other exception to the definition of subdivision;  
 E. That the information available to this surveyor is such that I am unable to make a determination to the best of my professional ability as to provisions contained in (A) through (D) above.

**CAR**  
 PLANNING  
 MAPPING  
 SURVEYING  
 DATE 08/22/16 SCALE 1"=100'  
 REVISION DRAWN  
 CHECKED  
 SHEET 1 of 2  
 PROJECT NO. 214-3093  
 CADD FILE 214-3093.dwg

B  
K  
7  
2  
P  
G  
2  
0  
3

CERTIFICATE AS TO UTILITIES AND DEDICATION

I hereby certify that the plans and specifications for the water and/or sewer improvements for this subdivision have been reviewed and approved by ONSLOW WATER and Sewer Authority...

This 6th day of February, 2017.

ONSLOW WATER AND SEWER AUTHORITY
By: [Signature]

N/F
Blue Heron Developers II LLC
DB. 4344, Pg. 159
MB. 34, Pg. 34
Zoned R-8M County
Tax Parcel ID 1314-36
Residential

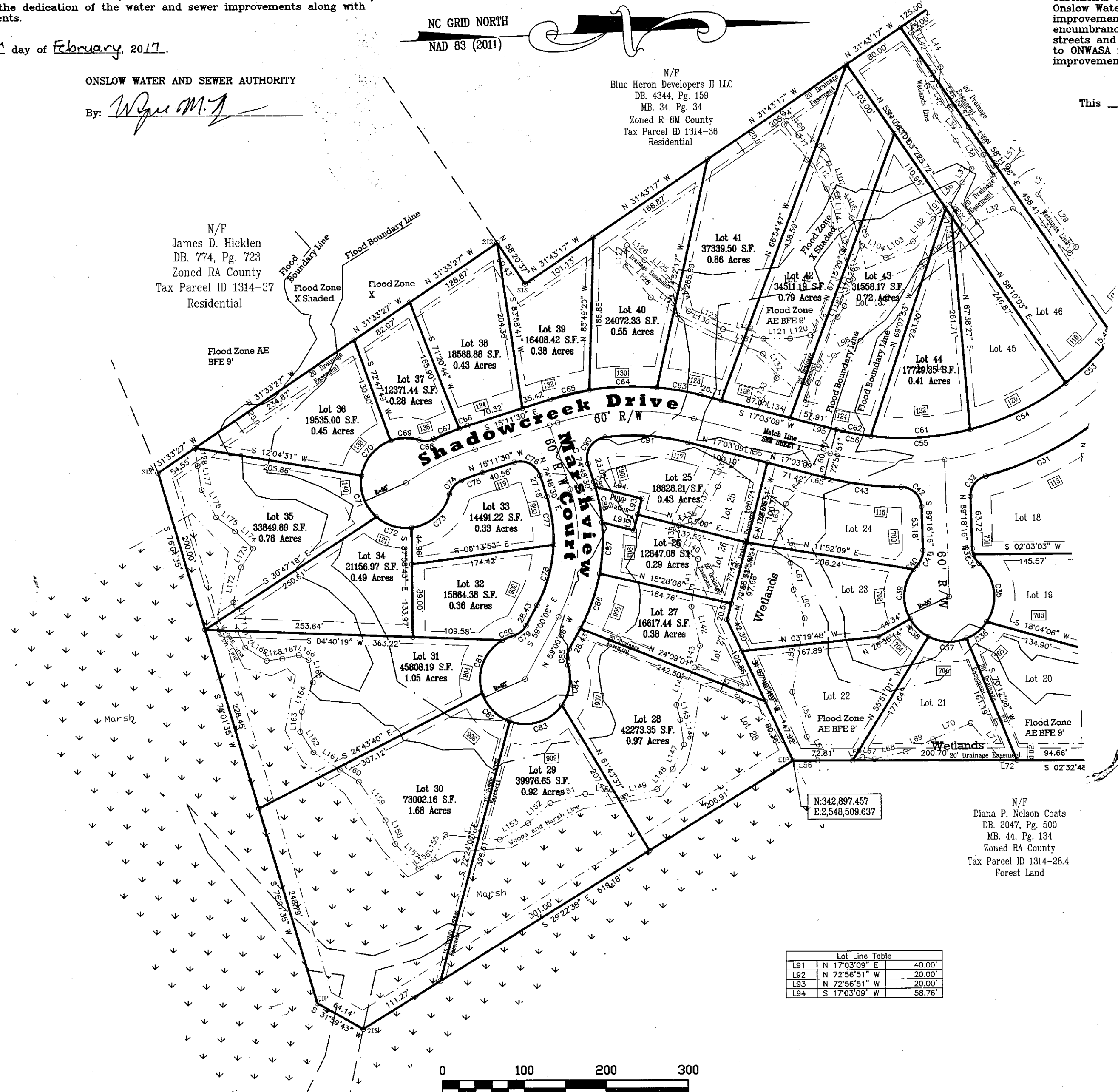
N/F
James D. Hicklen
DB. 774, Pg. 723
Zoned RA County
Tax Parcel ID 1314-37
Residential

OWNERS CERTIFICATION AS TO WATER AND/OR SEWER

I certify (i) that I am the owner of the lands shown on this map and of all of the water and/or sewer infrastructure located on such lands, (ii) that all required water and/or sewer improvements have been constructed within the streets and/or utility easements shown on this map in accordance with plans and specifications approved by Onslow Water and Sewer Authority (ONWSA)...

This 7th day of FEBRUARY, 2017.

MCNEILL + ASSOCIATES, INC.
OWNER
[Signature]
Signature L.E. MCNEILL
PRESIDENT
Title



Wetlands Line Table with columns for CURVE, RADIUS, ARC LENGTH, CHORD LENGTH, CHORD BEARING, and DELTA ANGLE. Lists curves C61 through C91.

Wetlands Line Table with columns for Lot and S/E coordinates. Lists lots L135 through L178.

Lot Line Table with columns for Lot and S/E coordinates. Lists lots L91 through L94.



HOWARDS CREEK

Charles A. Rawls & Associates, PA
1117 Hammock Beach Road, P.O. BOX 1126, SWANSBORO, N.C. 28584
TELEPHONE: (910) 326-1408 FAX: (910) 326-1400 Firm # C-3386

PROJECT: Shadow Creek Estates
A Portion of Tract 1, Bernice T. Phillips Heirs, DB 4359, Pg. 160
Onslow County Tax Map # 1314-287, NC PIN # 534404030561000
Swainsboro Township, Onslow County, North Carolina

CAR
PLANNING
MAPPING
SURVEYING

DATE 08/22/18 SCALE 1"=100'
REVISION DRAWN CAR
CHECKED

SHEET 2 of 2

PROJECT NO. 214-3093
CADD FILE 214-3093.dwg

For Additional Notes & Certifications See Sheet 1 of 2.

Vertical text on the right margin: B, K, 7, 2, P, G, 2, 0, 3, A



**TIDEWATER ASSOCIATES, INC.**  
**ENGINEERS • SURVEYORS • PLANNERS**  
**CEDAR POINT, NORTH CAROLINA**

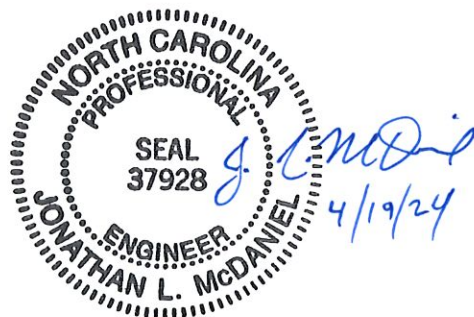
**COST OPINION  
FOR CALCULATION OF WARRANTY  
SHADOW CREEK ESTATES  
APRIL 19th, 2024**

FOR: One Harbor Church  
PO Box 1977  
Morehead City, NC 28557

ENGINEER: Tidewater Associates, Inc.  
604-E Cedar Point Blvd.  
Cedar Point NC, 28584

**NOTE:** The information contained herein represents the Preparers' opinion of the expected cost of construction based on the cost of similar types of work under similar working conditions. It is not an offer to perform the work at the stated prices, nor is it intended to represent more than the Preparers' opinion. The actual cost can be influenced by an infinite number of factors beyond the Preparers' control.

ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL
1	6" ABC Stone	TN	2165	\$38	\$82,270.00
2	1.5" S9.5C Asphalt	SY	6293	\$13.50	\$84,955.50
3	Fine Grading	SY	6921	\$1.50	\$10,381.50
4	Dress Up Site	LS	1	\$4,500	\$4,500.00
5	Testing	LS	1	\$2,000	\$2,000.00
6	24" Curb & Gutter	LF	6421	\$25	\$160,525.00
7	Curb Inlet Catch Basin	EA	8	\$1,500	\$12,000.00
8	15" Drainage Pipe (RCP)	LF	166	\$28	\$4,648.00
9	Sidewalk	LF	6864	\$14	\$96,096.00
<b>Total</b>					<b>\$457,376.00</b>
10% Warranty					<b>\$45,737.60</b>





# Crystal Coast Engineering, PA

205-3 Ward Road  
Swansboro, N.C. 28585  
Tel: (910) 325-0006 Fax: (910) 325-0060  
Email: crystalcoasteng@bizec.rr.com

January 24, 2017

Town of Swansboro  
601 W Corbett Avenue  
Swansboro, N.C. 28584

Re: Engineer's Certification Letter for Public Streets  
Shadow Creek Drive, Big Pine Court, Diamond Ridge Court, Hibiscus Court,  
& Marshview Court  
Shadow Creek Subdivision, Swansboro, N.C.

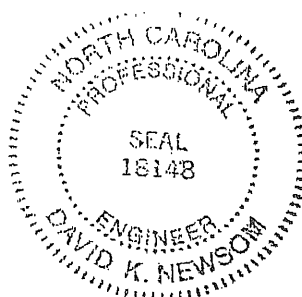
To Whom it May Concern,

Based upon my own periodic inspections of the referenced street improvements and Field Density Reports provided by the street contractor, I hereby certify that the referenced street improvements were constructed in substantial conformance with Town of Swansboro requirements and the approved construction drawings prepared by this office

Should you have any questions in this regard, please feel free to contact me.

Sincerely,

David K. Newsom, PE  
CRYSTAL COAST ENGINEERING, PA



1/24/17



**TIDEWATER ASSOCIATES, INC.**  
ENGINEERS • SURVEYORS • PLANNERS  
**CEDAR POINT, NORTH CAROLINA**

VIA EMAIL DELIVERY

October 21, 2024

Mr. Jonathan Barlow, Town Manager  
Town of Swansboro  
601 West Corbett Avenue  
Swansboro, NC 28584

RE: **Stormwater Certification (Final)**  
Shadow Creek Estates Subdivision  
Town of Swansboro, NC

Dear Mr. Barlow,

We are providing herein the required Stormwater Certification for the above referenced project as shown below. This certification covers the curb inlets, outlet chutes, infrastructure piping and swales to serve all the lots of the subdivision.

I, Jonathan L. McDaniel, as a duly registered Professional Engineer in the State of North Carolina, having been authorized to conducted a thorough on-site stormwater inspection of the project, Shadow Creek Estates Subdivision, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the stormwater system, such that the system was observed to have been built within substantial compliance and intent of approved plans and specifications of North Carolina Stormwater Permit SW8 070551.

If you have any questions, please give me a call.



Very truly yours,

TIDEWATER ASSOCIATES, INC.

Jonathan L. McDaniel, P.E.  
Vice President

xc: Shadow Creek Estates HOA

JME/ProjectsFolder/Shadowcreek/StreetDedication10.24/Barlow.ShadowCreekEstates.Stormwater.FinalCert.10.14.24

604E Cedar Point Blvd. | Cedar Point, NC 28584 | (252) 393-6101

Firm License Number F-0108 | www.tidewaterenc.com

## 7. Field Inspection

## a. DEMLR 6/20/24:

- i. Marshview Court Swale: This swale needs to be stabilized.
- ii. Hibiscus Court Swale:
  - A. This swale has been filled with rock. The swale must be vegetated, 5:1 or flatter, and at least 100ft long.
  - B. There appears to be a fence in the easement. The fence may need to be removed to remove the rock and/or if it impairs drainage in the future.
- iii. Lots 49 & 50 Swale: This swale has heavy erosion and channelization carrying sediment into the wetlands. It needs to be stabilized.
- iv. Lots 53 & 54 Swale:
  - A. Silt fence partially blocks the inlet and needs to be removed.
  - B. Erosion in the swale has been armored with concrete.

b. Response 7/9/24: Please see the attached Schedule of Compliance providing a timeline in which the following compliance issued will be resolved, Appendix E.

c. DEMLR 8/5/24: If a permit is to be transferred under a Schedule of Compliance (SoC) the document must be signed by the proposed permittee (The HOA) as opposed to the current permittee. Please either maintain the project or submit an SoC signed by the HOA.

All of the requested information listed above should be received in this Office **by September 4, 2024**, in accordance with 15A NCAC 02H.1045(4)(a)(i). *Please note that only two letters requesting additional information is allowed in the State Stormwater Program, this being the first.* If the required information is not satisfactorily provided by this date, the project will be returned in accordance with 15A NCAC 02H.1045(4)(a)(ii). If the project is returned and you wish to re-submit later, you will need to resubmit all required items at that time, including the application fee.

Please note that if, upon review of the submitted information or upon a deficient compliance inspection of the project, it is determined that a major modification to the permit is required to resolve the compliance issues, the transfer application will be returned as incomplete. Upon the issuance of the modified permit, and the successful completion of any work required by the modified permit and/or the restoration of the site to design condition, the applicant will need to submit an updated transfer application and a new fee to the Division to start the transfer process over again.

Please remember that the permittee is responsible for complying with the terms and conditions of the permit and the approved plans and specifications until the Division approves the transfer request.

Please reference the State assigned permit number on all correspondence. If you have any questions concerning this matter, please feel free to call me at (910) 796-7215 or email me at [Kelly.p.johnson@deq.nc.gov](mailto:Kelly.p.johnson@deq.nc.gov).

Sincerely,

*Kelly Johnson*

Kelly Johnson  
Environmental Engineer

Enclosure: Compliance Inspection Report

DES/kpj: G:\Stormwater\Permits & Projects\2007\070551 LD\2024 08 addinfo CEI\_addinfo 070551

cc: Josh Edmondson; Tidewater Associates, Inc.; *via email: office@tidewaterenc.com*  
Ashley Smith, Wilmington Regional Office Permitting Assistant; *via email*  
Wilmington Regional Office Stormwater Permit File



# Marshview Court Swale





Hibiscus Court Swale



Lot 49 & 50 Swale

Lot 53 & 54 Swale



**RESOLUTION 2024-R10  
TO ACCEPT PUBLIC STREETS AND SIDEWALKS  
IN SHADOW CREEK ESTATES**

WHEREAS, the Town of Swansboro Mayor and Board of Commissioners have approved preliminary subdivision designs and plats associated with various developments; and

WHEREAS, construction drawings are then submitted to develop and improve the lots, streets, and public rights-of-way; and

WHEREAS, the Town of Swansboro Engineer and staff reviews the construction drawings for compliance with town standards; and

WHEREAS, the construction drawings have been approved, the streets and sidewalks have been inspected by the Town of Swansboro Public Works Department for compliance involving (but not limited to) thickness, compaction, and quality; and

WHEREAS, after these streets and sidewalks have been fully inspected and approved, final plats are signed and recorded with the Onslow County Register of Deeds Office; and

WHEREAS, the Town of Swansboro participates annually in the State of North Carolina Powell Bill program; and

WHEREAS, the Powell Bill certified statement requires resolution from the elected body officially accepting such streets.

NOW THEREFORE BE IT RESOLVED, the Town of Swansboro Mayor and Board of Commissioners accept the streets and sidewalks in Shadow Creek Estates as follows:

<u>Street Name</u>	<u>Map Book and Page of Record</u>
Shadow Creek Drive	Book 72, Page 203
Big Pine Court	Book 72, Page 203A
Diamond Ridge Court	
Hibiscus Court	
Marshview Court	

Adopted this 12<sup>th</sup> day of November 2024.

\_\_\_\_\_  
John Davis, Mayor

Attest:

\_\_\_\_\_  
Alissa Fender, Town Clerk



# Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Muscovy Duck Discussion**

Board Meeting Date: November 12, 2024

Prepared By: Jon Barlow – Town Manager

**Overview:** A discussion focusing on the rules and regulations concerning the management of the Muscovy Duck population in the Town of Swansboro was requested by the Board.

Enclosed in the agenda packet are portions of State and Federal Laws pertaining to the taking of wildlife particularly migratory birds and Muscovy ducks. A copy of the Town’s code on animals is also included. The topic of Muscovy Ducks in Swansboro periodically becomes a matter of discussion especially when the duck population grows. Last year, Public Works Director Tank Bates did a lot of research on the procedures allowed on how to control the Muscovy Duck population. A great deal of assistance was provided by Toni O’Neil Founder/Executive Director of Possumwood Acres. Ms. O’Neil and Public Works Director Tank Bates will be in attendance to provide information and answer questions on the proper techniques to better control the population of Muscovy Ducks in Town.

**Background Attachment(s):**

- 1. Town Code Chapter 90: Animals;
- 2. Portions of 15A NCAC;
- 3. 50 CFR 21.174;
- 4. General Considerations for Handling Wildlife

**Recommended Action:** Informational purposes only

**Action:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Section

**General Provisions**

- 90.01 Cruelty to animals
- 90.02 Animals at large
- 90.03 Keeping and feeding of waterfowl prohibited
- 90.04 Bird sanctuary
- 90.05 Keeping of livestock prohibited
- 90.06 Chickens

**Dogs**

- 90.20 Definitions
- 90.21 Compliance with state law
- 90.22 Inoculation of pets
- 90.23 Running at large
- 90.24 Nuisances
- 90.25 Cruelty and abandonment
- 90.26 Female dogs in heat
- 90.27 Dog waste cleanup
- 90.28 Removing tags or collars; molesting dog
  
- 90.98 Violations
- 90.99 Penalty

**Statutory reference:**

*Authority to regulate domestic animals, see G.S. § 160A-186*

**Editor’s note:**

*As the county is responsible for impoundment and disposing of impounded dogs, these sections have been deleted from the town code.*

**GENERAL PROVISIONS**

**§ 90.01 CRUELTY TO ANIMALS.**

It shall be unlawful to mistreat any animals or to willfully frighten them, to attend or stage any animal or fowl fight or to poison any animal.

(OC, § 8-2-1) (Am. Ord. passed 3-9-89) Penalty, see § 90.99

**Statutory reference:**

*Cruelty to animals generally, see G.S. §§ 14-360 et seq.*

*Municipal authority to prevent the abuse of animals, see G.S. § 160A-182*

**§ 90.02 ANIMALS AT LARGE.**

No horses, goats, cattle, chickens, or other animals, shall be permitted to run at large within the town limits, unless otherwise allowed in areas designated by the town. All animals unless claimed within four days shall be disposed of as the town shall deem best.

(OC, § 8-2-2) (Am. Ord. 2014-O3, passed 2-18-14; Am. Ord. 2017-012, passed 11-14-17) Penalty, see § 90.99

**§ 90.03 KEEPING AND FEEDING OF WATERFOWL PROHIBITED.**

(A) Except as hereinafter provided, it shall be unlawful to keep or maintain any duck, goose or other waterfowl on any lot or within any pen or other enclosure or building within the corporate limits of the town.

(B) Notwithstanding the provision of division (A) of this section it shall be lawful to maintain ducks, geese and waterfowl on private property which directly abuts the White Oak River and which is in an area zoned B-1, B-2, or Historic Business District Overlay; provided, however, that the ducks, geese and waterfowl shall not be kept within any pen or other enclosure or building upon the property.

(C) Except as hereinafter provided it shall be unlawful to feed any duck, goose or other waterfowl within the corporate limits of the town, or to scatter or otherwise place any material edible by the ducks, geese or other waterfowl in a manner intended or clearly likely to attract the ducks, geese or other waterfowl within the corporate limits of the town.

(D) Notwithstanding the provisions of division (C) of this section, it shall be lawful to feed ducks, geese and waterfowl on private property which directly abuts the White Oak River, and which is zoned either B-1, B-2, or Historic Business District Overlay.

(E) Where the duck, goose or other waterfowl is an animal used for therapy documented by a medical professional.

(OC, § 8-2-3) (Ord. passed 3-16-93; Am. Ord. 2016-05, passed 5-10-16) Penalty, see § 90.99

**§ 90.04 BIRD SANCTUARY.**

(A) It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests. Provided, however, if starlings or similar birds or domestic fowl are found to be congregating in such numbers in a particular locality that they constitute a nuisance or a menace to health or property in the opinion of the proper authorities of the town or county then in that event the authorities shall meet with representatives of the Audubon Society, bird club, garden club or humane society or as many of these clubs as are found to exist in the town after having given at least three days actual notice of the time and place of the meeting to the representatives of the clubs.

(B) If as a result of the meetings no satisfactory alternative is found to abate the nuisance, then the birds or domestic fowl may be removed or destroyed in such numbers and in the manner as is deemed advisable by the authorities under the supervision of the Chief of Police of the town.

(OC, § 8-2-4) (Ord. passed 2-14-57; Am. Ord. passed 3-9-89) Penalty, see § 90.99

**§ 90.05 KEEPING OF LIVESTOCK PROHIBITED.**

It shall be unlawful to keep or maintain any cow, hog, horse, pony, mule, sheep, goat or other livestock on any lot or within any pen, stable or other enclosure or building within the corporate limits with the exception of chickens, see § 90.06.

(OC, § 8-2-5) (Am. Ord. passed 3-9-89; Am. Ord. 2014-O3, passed 2-18-14) Penalty, see § 90.99

**§ 90.06 CHICKENS.**

Chickens are permitted for personal domestic use in the corporate limits as provided herein:

(A) No more than six hens are allowed per single family parcel in the corporate limits. Roosters are not permitted.

(B) Chickens shall be confined on the property within an enclosure. Such enclosure shall be restricted to the rear yard, and shall meet the accessory structure setback requirements of the prevailing zoning district, refer to the Unified Development Ordinance, Article 10, Zoning Districts and Zoning Map. Enclosures shall allow for a minimum of three square feet per fowl. A building permit will be required, but there shall be no fee.

(C) Slaughter is not permitted.

(D) Other domestic fowl, such as (but not limited to) peacocks, geese, and turkey, are prohibited.

(E) Nuisance conditions shall be abated through the provisions of §92.25.

(Ord. 2014-O3, passed 2-18-14) Penalty, see § 90.99

**DOGS**

**§ 90.20 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONMENT.** Allowing a dog to provide its own resources in finding shelter, food or water; leaving a dog for more than 36 hours without human attention or supervision.

**DOG.** A male or female dog of any age.

**OFFICER.** Shall be intended to mean any police officer, animal control officer or any other person authorized or employed by the town or county whose duty it is to preserve the peace, to make arrests or to enforce the law.

**OWNER.** Any person or persons, firm, association or corporation owning, feeding, keeping or harboring a dog.

**RUNNING AT LARGE.** Any dog while roaming, running or hunting for itself off the property of its owner or custodian and not under its owner's or custodian's immediate control.

**§ 90.21 COMPLIANCE WITH STATE LAW.**

(A) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(B) It is the purpose of this subchapter to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

(OC, § 8-2-12) (Ord. passed 7-1-71; Am. Ord. passed 3-9-89) Penalty, see § 90.99

**Statutory reference:**

*State provisions for rabies control, see G.S. §§ 130A-184 through 130A-200*

**§ 90.22 INOCULATION OF PETS.**

(A) It shall be unlawful for an owner to fail to provide current inoculation against rabies (hydrophobia) for any dog or cat four months of age or older. Should it be deemed necessary by the Town Board of Commissioners, County Health Director, Board of County Commissioners, or State Public Health Veterinarian that other pets be inoculated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner to fail to provide current inoculation against rabies for that pet.

(B) A rabies inoculation shall be deemed current for a cat if the inoculation has been given within the preceding 12 months. A rabies inoculation shall be deemed current for a dog if two inoculations have been given one year apart and booster doses of rabies vaccine administered every three years thereafter.

(OC, § 8-2-13) (Ord. passed 7-1-71; Am. Ord. passed 3-9-89) Penalty, see § 90.99

**Statutory reference:**

*For state law provisions, see G.S. § 130A-185*

**§ 90.23 RUNNING AT LARGE.**

(A) No owner shall allow his dog to run at large in the town unaccompanied by the owner or by some member of the owner's family or some other person by the owner's permission, unless otherwise allowed in areas designated by the town.

(B) Duties of the owner to control the animal(s) shall include:

(1) All animals within the city shall remain under the immediate control of their owner or keeper, unless otherwise allowed in areas designated by the town. For the purpose of this section, immediate control by owner or keeper shall be construed to mean:

(a) Restrained upon or within the property of the owner or keeper of the animal either by being tied, chained, within the confines of a fence designed to restrain the animal, or within an electronically operated fence sufficient to restrain the animal upon the property.

(b) While being walked or exercised off the premises or property of the owner or keeper, the animal must be restrained by a leash connected to a collar or harness, sufficient to restrain the animal from breaking loose, unless otherwise allowed in areas designated by the town.

(C) Cats shall be exempt from this section.

(OC, § 8-2-14) (Ord. passed 7-1-71; Am. Ord. passed 3-9-89; Am. Ord. 2008-07, passed 3-18-08; Am. Ord. 2017-012, passed 11-14-17) Penalty, see § 90.99

**§ 90.24 NUISANCES.**

(A) Any person keeping within the corporate limits of the town one or more dogs which by prolonged and habitual barking, howling or whining, cause serious annoyance to the neighboring residents and thereby interfere with the reasonable use and enjoyment of the premises occupied by those residents, shall be guilty of maintaining a nuisance.

(B) Any person keeping within the corporate limits of the town one or more dogs and who fails to maintain its premises or enclosure in a sanitary condition and thereby creates obnoxious odors or serious annoyance to the neighboring residents shall be guilty of maintaining a nuisance.

(C) Upon written and signed complaint being made to the Police Department by any resident or residents referred to in this section, a representative of the Police Department shall notify that person against whom the complaint is directed that a complaint has been received and thereupon that person shall abate the nuisance declared in divisions (A) and (B) above within 24 hours from time of notification.

(OC, § 8-2-15) (Ord. passed 7-1-71) Penalty, see § 90.99

**§ 90.25 CRUELTY AND ABANDONMENT.**



It shall be unlawful to intentionally dump, dispose, turn free or abandon any dog for the purpose of total abandonment the town. A law enforcement officer in the performance of their duties may find it necessary to take action against an animal. A person is guilty of a misdemeanor who maliciously kills, maims, wounds or beats an animal which is the property of others, or who having charge or custody of an animal as owner or otherwise tortures, deprives of necessary sustenance, drink or shelter, beats, mutilates or kills an animal or inflicts unnecessary cruelty upon an animal.

(OC, § 8-2-16) (Ord. passed 3-9-89) Penalty, see § 90.99

**§ 90.26 FEMALE DOGS IN HEAT.**

No owner of any female dog in heat shall keep the animal within the town during that period, except when securely confined to the premises of the owner or other person with that person’s consent.

(OC, § 8-2-17) Penalty, see § 90.99

**§ 90.27 DOG WASTE CLEANUP.**

No owner, keeper, or other person in charge, possession, custody, or control of any dog shall cause or allow the dog to defecate on any street, sidewalk, public right-of-way, publicly-owned or leased area, park, or private property without the permission of the owner, agent, or lawful occupant of the property; unless the excrement is immediately removed by the owner, keeper, or person in charge of the dog, placed in a sealed container, and disposed of in an approved sewage collection system or in an appropriate container designed for solid waste disposal.

(Ord. 2008-015, passed - - 08) Penalty, see § 90.99

**§ 90.28 REMOVING TAGS OR COLLARS; MOLESTING DOG.**

(A) It shall be a misdemeanor for any person, other than the owner or lawful possessor to do any of the following:

(1) To remove the collar or rabies vaccination tag from the neck of the dog or to entice any dog out of the enclosure or house on the premises of its owner or lawful possessor;

(2) To seize or molest any dog while held or led by its owner or lawful possessor.

(B) Upon conviction thereof punishment shall be as prescribed in §90.99 of this chapter.

(OC, § 8-2-19) (Am. Ord. passed 3-9-89)

**§ 90.98 VIOLATIONS.**

Any owner found violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished in accordance with state statute.

(OC, § 8-2-18) (Am. Ord. 2008-15, passed - - 08) Penalty, see § 90.99

**§ 90.99 PENALTY.**

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall be subject to the penalty in § 10.99.

(B) Any person who violates any provision of Chapter 90 shall be guilty of a misdemeanor and shall be fined not more than \$100 or imprisoned for not more than 30 days.

(OC, § 8-2-3(e)) (Ord. passed 3-16-93; Am. Ord. 2014-O3, passed 2-18-14)

**15A NCAC 10B .0106 WILDLIFE TAKEN FOR DEPREDATIONS**

- (a) Depredation permits shall authorize the taking, destruction, transfer, removal, transplanting, or driving away of undesirable, destructive, or excess wildlife or wildlife resources as specified in this Rule.
- (b) Depredation permits shall not be required for the owner or lessee of a property to take wildlife while committing depredations to that property; however, the manner of take, disposition of dead wildlife, and reporting requirements specified in this Rule shall apply.
- (c) No permit shall be issued to take endangered or threatened species of wildlife listed under 15A NCAC 10I, except alligators, by reason of depredations to property. Only the Executive Director or his or her designee may issue depredation permits for Special Concern species listed in 15A NCAC 10I .0105 and for alligators.
- (d) An individual may take an endangered or threatened species in immediate defense of his or her own life or of the lives of others without a permit. Any endangered or threatened species that may constitute a demonstrable but non-immediate threat to human safety shall be reported to a state or Federal conservation Officer or employee who is designated by their agency, who, upon verification of the report, may take or remove the specimen as provided by 15A NCAC 10I .0102(h)(1).
- (e) No permit may be issued for the taking of migratory birds and other federally-protected animals unless a current Federal Depredation Order applies to a species or a corresponding, valid U.S. Fish and Wildlife Service depredation permit, if required, has been issued.
- (f) Depredation permits may be issued for taking of wildlife resources in circumstances of overabundance or when the wildlife resources present a danger to human safety. Cities, as defined in G.S. 160A-1(2), seeking a depredation permit pursuant to these circumstances shall submit to the Commission the following information:
- (1) the name and location of the city;
  - (2) the acreage of the affected property;
  - (3) a map of the affected property;
  - (4) the signature of an authorized city representative;
  - (5) the nature of the overabundance or the threat to public safety; and
  - (6) a description of previous actions taken by the city to ameliorate the problem.
- (g) Depredation permits for other species may be issued for taking wildlife that is or has been damaging or destroying property, provided there is evidence of property damage.
- (h) Depredation Permits shall:
- (1) be prepared on a form supplied by the Commission;
  - (2) only be issued by authorized employees of the Commission or licensed Wildlife Control Agents (WCA);
  - (3) have an expiration date;
  - (4) name the species allowed to be taken;
  - (5) include limitations on age, sex, type of depredation, location of animal or damage, and local laws;
  - (6) be issued to a landholder or an authorized representative of a unit of local government for depredations on public property;
  - (7) be used only by individuals named on the permit;
  - (8) authorize the possession of wildlife resources taken under the authority of the permit; and
  - (9) be retained as long as the wildlife resource is in the authorized individual's possession.
- (i) Individuals taking wildlife resources under the authority of a depredation permit shall comply with the conditions of the permit and the requirements specified in this Rule.
- (j) The following shall apply to manner of take:
- (1) Wildlife taken without a permit while committing depredations to property may, during the open season for the species, be taken by the landholder by any lawful method. During the closed season, such depredating wildlife may be taken without a permit only by use of firearms or archery equipment as defined in 15A NCAC 10B .0116.
  - (2) Wildlife taken under a depredation permit may be taken only by the method or methods authorized by the permit. When trapping is authorized, in order to limit the taking to the intended purpose, the permit may specify a reasonable distance from the property sought to be protected, within which the traps shall be set. The Executive Director, Commission employee, or WCA may also state in a permit authorizing trapping whether or not bait or lure may be used and the type of bait or lure that is authorized based upon factors such as type of depredation, locations of animal or damage, and local laws. In addition to any trapping restrictions that may be contained in the permit, the method of trapping shall be in accordance with the requirements and restrictions imposed by G.S. 113-291.6 and other local laws passed by the General Assembly. No depredation permit shall authorize

the use of poisons or pesticides in taking wildlife except in accordance with the provisions of the North Carolina Pesticide Law of 1971, G.S. 143, Article 52, the Structural Pest Control Act of 1955, G.S. 106, Article 4C, and G.S. 113, Article 22A. No depredation permit shall authorize the taking of wildlife by any method by any landholder upon the lands of another except when the individual is listed as a second party on a depredation permit.

- (3) Any landholder, with or without a depredation permit, or second party on a depredation permit shall not intentionally wound a wild animal in a manner that will not cause its immediate death as suddenly and humanely as the circumstances permit.
- (k) The following shall apply to the disposition of wildlife taken:
- (1) Except as provided by Subparagraphs (2) through (7) of this Paragraph, any wildlife killed without a permit while committing depredations shall be buried or disposed of in a safe and sanitary manner on the property where taken. Wildlife killed under a depredation permit shall be buried or otherwise disposed of as stated on the permit.
  - (2) Wildlife killed under a depredation permit may be transported to an alternate disposal site. Anyone in possession of carcasses of animals being transported under a depredation permit shall have a copy of the depredation permit in his or her possession.
  - (3) The edible portions of feral swine and deer may be retained by landholder for consumption but shall not be transported from the property where the depredations took place without a valid depredation permit. The landholder may give a second party the edible portions of feral swine or deer taken under a depredation permit. The receiver of the edible portions shall hold a copy of the depredation permit. The nonedible portions of any deer carcass, including head, hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) or (2) of this Paragraph or turned over to a Commission employee for disposition.
  - (4) Any fox killed under a depredation permit may be disposed of as described in Subparagraph (1) or (2) of this Paragraph or, upon compliance with the fur tagging requirements of 15A NCAC 10B Section .0400, the carcass or pelt may be sold to a licensed fur dealer.
  - (5) The carcass or pelt of any furbearing animal killed during their open season for control of depredations to property, whether with or without a permit, may be sold to a licensed fur dealer provided that the person offering such carcass or pelt for sale has a valid hunting or trapping license. Bobcats and otters may only be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400.
  - (6) Wild animals in the order Carnivora, armadillos, groundhogs, nutria, and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia, or such wild animals must be released on the property where captured with permission from the landholder. Feral swine shall be euthanized while still in the trap in accordance with G.S. 113-291.12. Animals transported or held for euthanasia shall be euthanized within 12 hours of possession. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit shall have a copy of the depredation permit in his or her possession. When the relocation site is public property, written permission shall be obtained from the local, State, or federal official authorized to manage the property before any animal may be released.
  - (7) The edible portions of bear may only be retained by the landholder for consumption but shall not be transported from the property where the depredations took place without a valid depredation permit. The landholder may give a second party the edible portions of a bear taken under a valid depredation permit. The receiver of the edible portions shall hold a copy of the depredation permit. The complete carcass of a bear taken without a depredation permit and nonedible portions of any bear carcass, including head, hide, feet, claws, and internal organs, from a bear taken under a valid depredation permit shall be disposed of as specified in Subparagraph (1) or (2) of this Paragraph or turned over to a Commission employee for disposition.
- (l) Any landholder who kills an alligator; coyote in the counties of Beaufort, Dare, Hyde, Tyrrell, or Washington; deer; Canada goose; bear; elk; or wild turkey under a valid depredation permit shall report the number and species of animal killed upon the expiration date of the depredation permit to the Wildlife Resources Commission on the form provided with the permit, or through the website link provided on the permit.
- (m) Any landholder shall report the killing and method of disposition of every alligator; coyote in the counties of Beaufort, Dare, Hyde, Tyrrell, and Washington; bear; or elk taken without a permit to the Wildlife Resources Commission within 24 hours following the killing.

(n) Animal Control Officers, as defined by G.S. 130A-184(1) when in the performance of official duties, shall be exempt from obtaining a depredation permit when taking wild animals that:

- (1) exhibit visible signs of rabies;
- (2) exhibit unprovoked aggression that may be associated with rabies;
- (3) are suspected to be rabid; or
- (4) have or may have exposed humans, pets, or livestock to rabies.

*History Note: Authority G.S. 113-134; 113-273; 113-274; 113-291.4; 113-291.6; 113-300.1; 113-300.2; 113-307; 113-331; 113-333; 113-334(a); 113-337; Eff. February 1, 1976; Amended Eff. August 1, 2013; January 1, 2012; August 1, 2010; July 1, 2010; May 1, 2008; August 1, 2002; July 1, 1997; July 1, 1995; January 1, 1995; January 1, 1992; August 1, 1990; Temporary Amendment Eff. August 1, 2014 and shall remain in effect until amendments expire as specified in G.S. 150B-21.1(d) or the United States District Court for the Eastern District of North Carolina's court order number 2:13-CV-60-BOs signed on May 13, 2014 is rescinded, whichever date is earlier. The court order is available at [www.ncwildlife.org](http://www.ncwildlife.org); Temporary Amendment Eff. February 27, 2015; Amended Eff. May 1, 2021; October 1, 2019; December 1, 2016; July 1, 2016; May 1, 2016; Readopted Eff. October 1, 2022; Amended Eff. November 1, 2024.*

**15A NCAC 10B .0107 BLACK BEAR**

It is unlawful to take or possess a female bear with a cub or cubs at its side, or to take or possess a cub bear, unless authorized by a valid captivity license, depredation permit, or scientific collection license issued by the Commission. For the purpose of this Rule, cub bear is defined as specified in G.S. 113-291.7(b).

*History Note:* Authority G.S. 113-134; 113-291.2; 113-291.7;  
Eff. February 1, 1976;  
Amended Eff. August 1, 2016; June 1, 2005; July 1, 1985;  
Readopted Eff. October 1, 2022.

**15A NCAC 10B .0118 SALE OF WILDLIFE**

- (a) The carcasses, parts, or pelts of bobcats, opossums, and raccoon that have been lawfully taken and tagged in accordance with 15A NCAC 10B .0402 may be sold. The sale of carcasses or pelts of bobcats, opossums, and raccoon killed accidentally or taken by hunting for control of depredations shall be permitted under the conditions set forth in 15A NCAC 10B .0106 and 15A NCAC 10B .0127.
- (b) The sale of lawfully acquired game birds and game animals or their parts is prohibited, except that processed non-edible products may be sold except as otherwise provided in this Rule or by statute.
- (c) The dressed pelt or feathers of deer, elk, fox, pheasant, quail, rabbit, or fox and gray squirrel may be bought or sold for the purpose of making fishing flies provided that the source of these animals may be documented as being legally obtained from out of state sources or from lawfully operated commercial breeding facilities. The buying and selling of migratory game birds shall be in accordance with 50 CFR 20.91 which is incorporated by reference, including subsequent amendments and editions. This document may be accessed at [www.ecfr.gov](http://www.ecfr.gov) at no cost.
- (d) The Executive Director or his designee may issue Trophy Wildlife Sale permits as authorized in G.S. 113-274 for the sale of lawfully taken and possessed individual dead wildlife specimens or their parts that are mounted, stuffed, or otherwise permanently preserved that may be sold under G.S. 113-291.3. A copy of the permit shall be retained with the specimen.
- (e) Raw hides from any lawfully-taken or possessed white-tailed deer may be sold.

*History Note:* Authority G.S. 113-134; 113-273; 113-274; 113-276.2; 113-291.3; 113-337; 50 CFR 20.91;  
Eff. November 9, 1980;  
Amended Eff. May 1, 2014; August 1, 2002; April 1, 1991; February 1, 1990;  
Temporary Amendment Eff. February 27, 2015;  
Temporary Amendment Expired Eff. December 11, 2015;  
Amended Eff. May 1, 2016;  
Readopted Eff. October 1, 2022.

## SECTION .0200 - HUNTING

### 15A NCAC 10B .0201 PROHIBITED TAKING AND MANNER OF TAKE

- (a) No person shall take, or have in their possession, any wild animal or wild bird listed in this Section except during the open seasons and in accordance with the limits herein prescribed, or as prescribed by 15A NCAC 10B .0300 pertaining to trapping or 15A NCAC 10D applicable to game lands managed by the Wildlife Resources Commission, unless otherwise permitted by law.
- (b) Lawful seasons and bag limits for each species apply beginning with the first day of the established season and continue through the last day of the listed season, with all dates being included.
- (c) When any hunting season ends on a January 1 that falls on a Sunday, that season shall be extended to Monday, January 2.
- (d) On Sundays, the following manners of take shall be allowed subject to the restrictions in G.S. 103-2:
- (1) archery equipment as described in 15A NCAC 10B .0116;
  - (2) falconry; and
  - (3) dogs where and when allowed the other days of the week.
- (e) Migratory game birds shall not be taken on Sundays.
- (f) Sunday hunting restrictions in Paragraph (d) of this Rule shall not apply to military reservations.
- (g) Those animals not classified as game animals in G.S. 113-129(7c), and for which a season is set under this Section, may be taken during the hours and methods authorized for taking game animals.
- (h) No person shall possess or use any substance or material that contains or is labeled as containing any excretion collected from a cervid, including feces, urine, blood, gland oil, or other bodily fluid for the purposes of taking or attempting to take, attracting, or scouting wildlife. This prohibition shall not apply to the following substances:
- (1) Products containing synthetic analogs of cervid excretions and labeled as such.
  - (2) Products consisting of or containing natural substances collected by a hunter from a legally harvested cervid in North Carolina.
  - (3) Natural substances collected from facilities within North Carolina that have a valid Farmed Cervid License from the North Carolina Department of Agriculture and Consumer Services and are labeled as such.
  - (4) Natural deer urine products containing excretions from facilities within North Carolina that have a valid Farmed Cervid License from the North Carolina Department of Agriculture and Consumer Services and are labeled as such.
  - (5) Natural deer urine products containing excretions from facilities that meet all the following requirements and are labeled as such:
    - (A) Determined to be free of chronic wasting disease (CWD) based on testing by an independent laboratory using a method that may help detect the presence of CWD prions.
    - (B) Complies with a federally approved CWD herd certification program and any federal CWD protocols.
    - (C) Participates in additional herd management requirements as specified by the Wildlife Resources Commission.
- (i) Where laws with local effect govern hunting, or conflict with this Subchapter, that law shall prevail.

*History Note:* Authority G.S. 103-2; 113-291.1(a); 113-134; 113-291.2; 113-291.3; S.L. 2021-176; Eff. February 1, 1976;  
Amended Eff. May 1, 2016; August 1, 2012; July 10, 2010; July 1, 1996; July 1, 1987  
Readopted Eff. June 17, 2024.

**15A NCAC 10B .0202 BEAR**

(a) Open Seasons for hunting bear shall be from the:

- (1) Monday on or nearest October 15 through the Saturday before Thanksgiving and the third Monday after Thanksgiving through January 1 in and west of Surry, Wilkes, Caldwell, Burke, and Cleveland counties;
- (2) second Monday in November through January 1 in Bladen, Brunswick, Carteret, Columbus, Cumberland, Duplin, New Hanover, Onslow, Pamlico, Pender, Robeson, and Sampson counties;
- (3) second Saturday in November through the second Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Beaufort, Bertie, Craven, Hertford, Jones, Martin, and Washington counties;
- (4) second Saturday in November through the third Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Dare, Hyde, and Tyrrell counties;
- (5) second Saturday in November through the second Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Currituck, Gates, and Perquimans counties;
- (6) second Sunday in November through the following Sunday, when November 1 falls on a Sunday the season shall be from the third Sunday in November through the following Sunday, and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Camden, Chowan, and Pasquotank counties;
- (7) third Saturday in November through the fifth Sunday thereafter in Edgecombe, Greene, Halifax, Lenoir, Nash, Northampton, Pitt, Wayne, and Wilson counties; and
- (8) concurrent with the open season for all lawful weapons for hunting deer as specified in 15A NCAC 10B .0203(a)(1) in Alamance, Alexander, Anson, Cabarrus, Caswell, Catawba, Chatham, Davie, Davidson, Durham, Franklin, Forsyth, Gaston, Granville, Guilford, Harnett, Hoke, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Stokes, Union, Vance, Wake, Warren, and Yadkin counties.

(b) Restrictions

- (1) For purposes of this Paragraph, "bait" means any natural, unprocessed food product that is a grain, fruit, nut, vegetable, or other material harvested from a plant crop that is not modified from its raw components.
- (2) Bears shall not be taken with the use or aid of:
  - (A) any processed food product as defined in G.S. 113-294(r), any animal, animal part or product, salt, salt lick, honey, sugar, sugar-based material, syrups, candy, pastry, gum, candy block, oils, spices, peanut butter, or grease;
  - (B) any extracts of substances identified in Part (A) of this Subparagraph;
  - (C) any substances modified by substances identified in Part (A) of this Subparagraph, including any extracts of those substances; or
  - (D) any bear bait attractant, including sprays, aerosols, scent balls, and scent powders.
- (3) Bears may be taken with the aid of bait from the Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties in Subparagraph (a)(1) of this Rule.
- (4) Bears may be taken with the aid of bait during the entire open season in the counties identified in Subparagraphs (a)(2) through (a)(8) of this Rule.
- (5) Bears shall not be taken while in the act of consuming bait as specified in G.S. 113-291.1(b)(2).
- (6) Hunters shall not take bears using dogs in the following counties: Alamance south of Interstate 85, Anson west of N.C. Hwy 742, Cabarrus, Chatham, Davie, Davidson, Franklin, Forsyth, Gaston, Guilford, Lee, Lincoln, Mecklenburg, Montgomery, Orange south of Interstate 85, Randolph, Rockingham, Rowan, Stanly, Union, and Wake south of N.C. Hwy 98. In all other counties and parts of counties, hunters may take bears using dogs and may release dogs in the vicinity of bait.

(c) No Open Season. It shall be unlawful to take bear on posted bear sanctuaries except when authorized by permit issued by the Commission. See 15A NCAC 10D .0106 for posted bear sanctuaries.

(d) The daily bag limit for bear is one, the possession limit is one, and the season limit is one.

*History Note: Authority G.S. 113-134; 113-291.1; 113-291.2; 113-291.7; 113-305; Eff. February 1, 1976; Amended Eff. July 1, 1998; September 1, 1995; July 1, 1995; July 1, 1994; April 14, 1992;*



*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. July 1, 2000;*  
*Temporary Amendment Eff. July 1, 2002;*  
*Amendment Eff. August 1, 2002;*  
*Temporary Amendment Eff. September 1, 2003;*  
*Temporary Amendment Expired Eff. December 27, 2003;*  
*Amended Eff. August 1, 2015; August 1, 2014; August 1, 2012; August 1, 2010; May 1, 2009; May*  
*1, 2008; May 1, 2007; May 1, 2006; June 1, 2005;*  
*Temporary Amendment Eff. May 31, 2016;*  
*Amended Eff. August 1, 2018; August 1, 2017; August 1, 2016;*  
*Temporary Amendment Eff. August 1, 2018;*  
*Amended Eff. August 1, 2019;*  
*Temporary Amendment Eff. September 1, 2020;*  
*Amended Eff. August 1, 2021;*  
*Readopted Eff. February 1, 2022.*

**15A NCAC 10B .0224 AMERICAN ALLIGATOR**

- (a) The season for taking American alligators shall be September 1 to October 1.
- (b) Take shall be by permit only.
- (c) The bag limit shall be one per permit and the season limit is one.
- (d) American alligators shall only be restrained using one of the following methods in accordance with the provisions of the permit:
  - (1) a hand-held restraining line or catch pole;
  - (2) a snatch hook attached to a hand-held restraining line or rod and reel;
  - (3) a harpoon or gig attached to a hand-held restraining line;
  - (4) a baited wooden peg less than two inches in length attached to a hand-held restraining line; or
  - (5) archery equipment with an arrow-attached restraining line.
- (e) If a minimum size limit is applicable to the county or municipality for which the permit is issued, the authorized size limit and method(s) of restraint shall be specified on the permit.
- (f) American alligators restrained by any method specified in Paragraph (d) of this Rule shall be killed without delay upon capture except when a minimum size limit is specified on the permit. When a minimum size limit is specified on the permit, animals not meeting the minimum size limit shall be released immediately at the site of capture.
- (g) American alligators may be taken day or night and with the use of artificial lights.
- (h) The use of baited hooks is prohibited.

*History Note: Authority G.S. 113-134; 113-291.1; 113-291.2;  
Eff. August 1, 2018;  
Amended Eff. August 1, 2020.*

**15A NCAC 10B .0225 ELK**

- (a) The season for taking elk is October 1 through November 1.
- (b) Hunting shall be by permit only.
- (c) The bag limit is one per permit.
- (d) Elk may be taken by any legal weapon as specified in G.S. 113-291.1.

*History Note: Authority G.S. 113-134; 113-291; 113-291.1; 113-291.2;  
Eff. August 1, 2016;  
Readopted Eff. February 1, 2022.*

**15A NCAC 10I .0103 ENDANGERED SPECIES LISTED**

(a) The following species of resident wildlife shall be designated as federally listed endangered species:

- (1) Amphibians: None listed.
- (2) Birds:
  - (A) Bachman's warbler (*Vermivora bachmanii*);
  - (B) Ivory-billed woodpecker (*Campephilus principalis*);
  - (C) Piping plover (*Charadrius melodus circumcinctus*);
  - (D) Red-cockaded woodpecker (*Dryobates borealis*); and
  - (E) Roseate tern (*Sterna dougallii dougallii*).
- (3) Crustacea: None listed.
- (4) Fish:
  - (A) Cape Fear shiner (*Miniellus mekistocholas*);
  - (B) Carolina madtom (*Noturus furiosus*);
  - (C) Roanoke logperch (*Percina rex*);
  - (D) Shortnose sturgeon (*Acipenser brevirostrum*), when found in inland fishing waters as defined in G.S. 113-129(9); and
  - (E) Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), when found in inland fishing waters as defined in G.S. 113-129(9).
- (5) Mammals:
  - (A) Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*);
  - (B) Eastern cougar (*Puma concolor*);
  - (C) Gray bat (*Myotis grisescens*);
  - (D) Indiana bat (*Myotis sodalis*);
  - (E) Northern long-eared bat (*Myotis septentrionalis*); and
  - (F) Virginia big-eared bat (*Corynorhinus townsendii virginianus*).
- (6) Mollusks:
  - (A) Appalachian elktoe (*Alasmidonta raveneliana*);
  - (B) Carolina heelsplitter (*Lasmigona decorata*);
  - (C) Dwarf wedgemussel (*Alasmidonta heterodon*);
  - (D) James spinymussel (*Parvaspina collina*);
  - (E) Littlewing pearlymussel (*Pegias fabula*);
  - (F) Tan riffleshell (*Epioblasma florentina walkeri*); and
  - (G) Tar River spinymussel (*Parvaspina steinstansana*).
- (7) Reptiles:
  - (A) Kemp's ridley sea turtle (*Lepidochelys kempii*);
  - (B) Hawksbill sea turtle (*Eretmochelys imbricata*); and
  - (C) Leatherback sea turtle (*Dermodochelys coriacea*).

(b) The following species of resident wildlife shall be designated as State-listed endangered species:

- (1) Amphibians:
  - (A) Gopher frog (*Rana [=Lithobates] capito*);
  - (B) Hickory Nut Gorge green salamander (*Aneides caryaensis*);
  - (C) Ornate chorus frog (*Pseudacris ornata*); and
  - (D) River frog (*Rana [=Lithobates] heckscheri*).
- (2) Birds:
  - (A) American peregrine falcon (*Falco peregrinus anatum*);
  - (B) Common tern (*Sterna hirundo*);
  - (C) Henslow's sparrow (*Centronyx henslowii*); and
  - (D) Wayne's black-throated green warbler (*Setophaga virens waynei*).
- (3) Crustacea:
  - (A) Bennett's Mill cave water slater (*Caecidotea carolinensis*); and
  - (B) Waccamaw crayfish (*Procambarus braswelli*).
- (4) Fish:
  - (A) Blotchside logperch (*Percina burtoni*);
  - (B) Bridle shiner (*Notropis bifrenatus*);
  - (C) Orange-fin madtom (*Noturus gilberti*);
  - (D) Paddlefish (*Polyodon spathula*);

- (E) Robust redhorse (*Moxostoma robustum*);
  - (F) Rustyside sucker (*Thoburnia hamiltoni*);
  - (G) Sharpnose darter (*Percina oxyrhynchus*); and
  - (H) Stonecat (*Noturus flavus*).
- (5) Mammals:
- (A) Little brown bat (*Myotis lucifugus*); and
  - (B) Tricolored bat (*Perimyotis subflavus*).
- (6) Mollusks:
- (A) Barrel floater (*Utterbackiana couperiana*);
  - (B) Brook floater (*Alasmidonta varicosa*);
  - (C) Carolina creekshell (*Sagittunio vaughanianus*);
  - (D) Fragile glyph (*Pilsbryna clingmani*);
  - (E) Green floater (*Lasmigona subviridis*);
  - (F) Greenfield ramshorn (*Helisoma eucosmium*);
  - (G) Knotty elimia (*Elimia christyi*);
  - (H) Longsolid (*Fusconaia subrotunda*);
  - (I) Magnificent ramshorn (*Planorbella magnifica*);
  - (J) Purple wartyback (*Cyclonaias tuberculata*);
  - (K) Savannah lilliput (*Toxolasma pullus*);
  - (L) Slippershell mussel (*Alasmidonta viridis*);
  - (M) Tennessee clubshell (*Pleurobema oviforme*);
  - (N) Tennessee heelsplitter (*Lasmigona holstonia*);
  - (O) Tennessee pigtoe (*Pleuronaia barnesiana*); and
  - (P) Yellow lampmussel (*Lampsilis cariosa*).
- (7) Reptiles:
- (A) Eastern coral snake (*Micrurus fulvius fulvius*);
  - (B) Eastern diamondback rattlesnake (*Crotalus adamanteus*); and
  - (C) Mimic glass lizard (*Ophisaurus mimicus*).

*History Note: Authority G.S. 113-134; 113-333;*  
*Eff. June 11, 1977;*  
*Amended Eff. October 1, 2017; August 1, 2016; May 1, 2008; April 1, 2001; February 1, 1994;*  
*November 1, 1991; April 1, 1991; June 1, 1990;*  
*Readopted Eff. October 1, 2021;*  
*Amended Eff. October 1, 2024; February 1, 2023.*

**15A NCAC 10I .0104 THREATENED SPECIES LISTED**

- (a) The following species of resident wildlife shall be designated as federally listed threatened species:
- (1) Amphibians: Neuse River waterdog (*Necturus lewisi*).
  - (2) Birds:
    - (A) Eastern black rail (*Laterallus jamaicensis jamaicensis*);
    - (B) Piping plover (*Charadrius melodus melodus*);
    - (C) Red knot (*Calidris canutus rufa*); and
    - (D) Wood stork (*Mycteria americana*).
  - (3) Crustacea: None listed.
  - (4) Fish:
    - (A) Spotfin chub (*Erimonax monachus*); and
    - (B) Waccamaw silverside (*Menidia extensa*).
  - (5) Mammals: West Indian Manatee (*Trichechus manatus*), when found in inland fishing waters as defined in G.S. 113-129(9).
  - (6) Mollusks:
    - (A) Atlantic pigtoe (*Fusconaia masoni*);
    - (B) Longsolid (*Fusconaia subrotunda*);
    - (C) Noonday globe (*Patera nantahala*); and
    - (D) Yellow lance (*Elliptio lanceolata*).
  - (7) Reptiles:
    - (A) Bog turtle (*Glyptemys muhlenbergii*);
    - (B) American alligator (*Alligator mississippiensis*);
    - (C) Green sea turtle (*Chelonia mydas*); and
    - (D) Loggerhead sea turtle (*Caretta caretta*).
- (b) The following species of resident wildlife are designated as State listed threatened species:
- (1) Amphibians:
    - (A) Eastern tiger salamander (*Ambystoma tigrinum tigrinum*);
    - (B) Green salamander (*Aneides aeneus*);
    - (C) Junaluska salamander (*Eurycea junaluska*);
    - (D) Eastern long-tailed salamander (*Eurycea longicauda longicauda*);
    - (E) Mabee's salamander (*Ambystoma mabeei*);
    - (F) Pine Barrens tree frog (*Hyla andersonii*); and
    - (G) Wehrle's salamander (*Plethodon wehrlei*).
  - (2) Birds:
    - (A) Bald eagle (*Haliaeetus leucocephalus*);
    - (B) Black skimmer (*Rynchops niger*);
    - (C) Caspian tern (*Hydroprogne caspia*);
    - (D) Gull-billed tern (*Gelochelidon nilotica aranea*);
    - (E) Northern saw-whet owl (*Aegolius acadicus*); and
    - (F) Rusty blackbird (*Euphagus carolinus*).
  - (3) Crustacea:
    - (A) Broad River spiny crayfish (*Cambarus spicatus*);
    - (B) French Broad crayfish (*Cambarus reburus*);
    - (C) Pamlico crayfish (*Procambarus medialis*);
    - (D) Sandhills crayfish (*Procambarus pearsei*); and
    - (E) South Mountains crayfish (*Cambarus franklini*).
  - (4) Fish:
    - (A) Bigeye jumprock (*Moxostoma ariommum*);
    - (B) Blotched chub (*Erimystax insignis*);
    - (C) Carolina pygmy sunfish (*Elassoma boehlkei*);
    - (D) Carolina redhorse (*Moxostoma sp.*);
    - (E) Ironcolor shiner (*Alburnops chalybaeus*);
    - (F) Least brook lamprey (*Lampetra aepyptera*);
    - (G) Logperch (*Percina caprodes*);
    - (H) Mimic shiner (*Paranotropis volucellus*);
    - (I) Rosyface chub (*Hybopsis rubrifrons*);

- (J) Sharphead darter (*Nothonotus acuticeps*);
  - (K) Santee chub (*Cyprinella zanema*);
  - (L) Sicklefin redhorse (*Moxostoma* sp.);
  - (M) Thicklip chub (*Cyprinella labrosa*);
  - (N) Turquoise darter (*Etheostoma inscriptum*); and
  - (O) Waccamaw darter (*Etheostoma perlongum*).
- (5) Mammals:
- (A) Eastern woodrat (*Neotoma floridana floridana*);
  - (B) Rafinesque's big-eared bat (*Corynorhinus rafinesquii rafinesquii*); and
  - (C) Red wolf (*Canis rufus*).
- (6) Mollusks:
- (A) Alewife floater (*Utterbackiana implicata*);
  - (B) Big-tooth covert (*Fumonelix jonesiana*);
  - (C) Cape Fear threetooth (*Triodopsis soelneri*);
  - (D) Eastern lampmussel (*Lampsilis radiata*);
  - (E) Eastern pondmussel (*Sagittunio nasutus*);
  - (F) Engraved covert (*Fumonelix orestes*);
  - (G) Mountain creekshell (*Leaunio vanuxemensis*);
  - (H) Notched rainbow (*Venustaconcha constricta*);
  - (I) Rainbow (*Cambarunio iris*);
  - (J) Roan supercoil (*Paravitrea varidens*);
  - (K) Sculpted supercoil (*Paravitrea ternaria*);
  - (L) Smoky Mountain covert (*Inflectarius ferrissi*);
  - (M) Creeper (*Strophitus undulatus*);
  - (N) Tidewater mucket (*Atlanticoncha ochracea*);
  - (O) Triangle floater (*Alasmidonta undulata*); and
  - (P) Waccamaw ambersnail (*Catinella waccamawensis*).
- (7) Reptiles:
- (A) Northern pine snake (*Pituophis melanoleucus melanoleucus*); and
  - (B) Southern hognose snake (*Heterodon simus*).

*History Note:* Authority G.S. 113-134; 113-333;  
 Eff. March 17, 1978;  
 Amended Eff. June 1, 2008; April 1, 2001; November 1, 1991; April 1, 1991; June 1, 1990;  
 September 1, 1989;  
 Temporary Amendment Eff. February 27, 2015;  
 Amended Eff. October 1, 2017; July 1, 2016; August 1, 2016;  
 Readopted Eff. October 1, 2021;  
 Amended Eff. October 1, 2024; February 1, 2023.

**15A NCAC 10I .0105 SPECIAL CONCERN SPECIES LISTED**

The following species of resident wildlife shall be designated as State listed special concern species:

- (1) Amphibians:
  - (a) Collinses' mountain chorus frog (*Pseudacris collinsorum*);
  - (b) Crevice salamander (*Plethodon longicrus*);
  - (c) Dwarf salamander (*Eurycea quadridigitata*);
  - (d) Dwarf black-bellied salamander (*Desmognathus folkertsi*);
  - (e) Eastern hellbender (*Cryptobranchus alleganiensis alleganiensis*);
  - (f) Four-toed salamander (*Hemidactylium scutatum*);
  - (g) Gray treefrog (*Hyla versicolor*);
  - (h) Mole salamander (*Ambystoma talpoideum*);
  - (i) Mudpuppy (*Necturus maculosus*);
  - (j) Southern chorus frog (*Pseudacris nigrita*);
  - (k) Southern zigzag salamander (*Plethodon ventralis*); and
  - (l) Weller's salamander (*Plethodon welleri*).
- (2) Birds:
  - (a) American oystercatcher (*Haematopus palliatus*);
  - (b) Bachman's sparrow (*Peucaea aestivalis*);
  - (c) Barn owl (*Tyto alba*);
  - (d) Black-capped chickadee (*Poecile atricapillus*);
  - (e) Brown creeper (*Certhia americana nigrescens*);
  - (f) Cerulean warbler (*Setophaga cerulea*);
  - (g) Glossy ibis (*Plegadis falcinellus*);
  - (h) Golden-winged warbler (*Vermivora chrysoptera*);
  - (i) Least bittern (*Ixobrychus exilis*);
  - (j) Least tern (*Sternula antillarum*);
  - (k) Little blue heron (*Egretta caerulea*);
  - (l) Loggerhead shrike (*Lanius ludovicianus*);
  - (m) Painted bunting (*Passerina ciris*);
  - (n) Red crossbill (*Loxia curvirostra*);
  - (o) Snowy egret (*Egretta thula*);
  - (p) Swallow-tailed kite (*Elanoides forficatus*);
  - (q) Tricolored heron (*Egretta tricolor*);
  - (r) Vesper sparrow (*Pooecetes gramineus*); and
  - (s) Wilson's plover (*Charadrius wilsonia*).
- (3) Crustacea:
  - (a) Carolina skistodiptomus (*Skistodiptomus carolinensis*);
  - (b) Carolina well diacyclops (*Diacyclops jeanneli putei*);
  - (c) Chowanoke crayfish (*Faxonius virginensis*);
  - (d) Graceful clam shrimp (*Lynceus gracilicornis*);
  - (e) Greensboro burrowing crayfish (*Cambarus catagius*);
  - (f) Hiwassee headwaters crayfish (*Cambarus parrishi*);
  - (g) Little Tennessee River crayfish (*Cambarus georgiae*);
  - (h) North Carolina spiny crayfish (*Faxonius carolinensis*); and
  - (i) Oconee stream crayfish (*Cambarus chaugaensis*).
- (4) Fish:
  - (a) American brook lamprey (*Lethenteron appendix*);
  - (b) "Atlantic" Highfin carpsucker (*Carpionodes sp. cf. velifer*);
  - (c) Banded sculpin (*Cottus carolinae*);
  - (d) Blue Ridge sculpin (*Cottus caeruleomentum*);
  - (e) Blueside darter (*Etheostoma jessiae*);
  - (f) Broadtail madtom (*Noturus sp.*);
  - (g) Carolina darter (*Etheostoma collis*);
  - (h) Cutlip minnow (*Exoglossum maxillingua*);
  - (i) Freshwater drum (*Aplodinotus grunniens*);
  - (j) Kanawha minnow (*Phenacobius teretulus*);



- (k) Lake sturgeon (*Acipenser fulvescens*);
  - (l) Least killifish (*Heterandria formosa*);
  - (m) Mooneye (*Hiodon tergisus*);
  - (n) Mountain madtom (*Noturus eleutherus*);
  - (o) Ohio lamprey (*Ichthyomyzon bdellium*);
  - (p) Olive darter (*Percina squamata*);
  - (q) Pinewoods darter (*Etheostoma mariae*);
  - (r) River carpsucker (*Carpionodes carpio*);
  - (s) Sandhills chub (*Semotilus lumbee*);
  - (t) Seagreen darter (*Etheostoma thalassinum*);
  - (u) Sickie darter (*Percina williamsi*);
  - (v) Smoky dace (*Clinostomus* sp.);
  - (w) Sooty-banded darter (*Percina westfalli*);
  - (x) Striped shiner (*Luxilus chrysocephalus*);
  - (y) Snubnose darter (*Etheostoma simoterum*);
  - (z) "Thinlip" chub (*Cyprinella* sp. cf. *zanema*);
  - (aa) Waccamaw killifish (*Fundulus waccamensis*);
  - (bb) Wounded darter (*Nothonotus vulneratus*); and
  - (cc) Yellowfin shiner (*Hydrophlox lutipinnis*).
- (5) Mammals:
- (a) Allegheny woodrat (*Neotoma magister*);
  - (b) Buxton Woods white-footed mouse (*Peromyscus leucopus buxtoni*);
  - (c) Coleman's oldfield mouse (*Peromyscus polionotus colemani*);
  - (d) Eastern big-eared bat (*Corynorhinus rafinesquii macrotis*);
  - (e) Eastern small-footed bat (*Myotis leibii leibii*);
  - (f) Florida yellow bat (*Lasiurus intermedius floridanus*);
  - (g) Southeastern bat (*Myotis austroriparius*);
  - (h) Southern rock vole (*Microtus chrotorrhinus carolinensis*); and
  - (i) Star-nosed mole (*Condylura cristata parva*).
- (6) Mollusks:
- (a) Appalachian gloss (*Zonitoides patuloides*);
  - (b) Bidentate dome (*Ventridens coelaxis*);
  - (c) Black mantleslug (*Pallifera hemphilli*);
  - (d) Blackwater ancylid (*Ferrissia hendersoni*);
  - (e) Blue-foot lancetooth (*Haplotrema kendeighi*);
  - (f) Cape Fear spike (*Elliptio marsupiobesa*);
  - (g) Clingman covert (*Fumonelix wheatleyi clingmanicus*);
  - (h) Dark glyph (*Glyphyalinia junaluskana*);
  - (i) Dwarf proud globe (*Patera clarki clarki*);
  - (j) Dwarf threetooth (*Triodopsis fulciden*);
  - (k) Fringed coil (*Helicodiscus fimbriatus*);
  - (l) Glossy supercoil (*Paravitrea placentula*);
  - (m) Great Smoky slitmouth (*Stenotrema depilatum*);
  - (n) High mountain supercoil (*Paravitrea andrewsae*);
  - (o) Honey glyph (*Glyphyalinia vanattai*);
  - (p) Lamellate supercoil (*Paravitrea lamellidens*);
  - (q) Mirey Ridge supercoil (*Paravitrea clappi*);
  - (r) Open supercoil (*Paravitrea umbilicaris*);
  - (s) Pink glyph (*Glyphyalinia pentadelphia*);
  - (t) Pink heelsplitter (*Potamilus alatus*);
  - (u) Pod lance (*Elliptio folliculata*);
  - (v) Queen crater (*Appalachina chilhoweensis*);
  - (w) Ramp Cove supercoil (*Paravitrea lacteodens*);
  - (x) Ridged lioplax (*Lioplax subcarinata*);
  - (y) Roanoke slabshell (*Elliptio roanokensis*);
  - (z) Saw-tooth disc (*Discus bryanti*);

- (aa) Seep mudalia (*Leptoxis dilatata*);
  - (bb) Spike (*Eurytnia dilatata*);
  - (cc) Spiral coil (*Helicodiscus bonamicus*);
  - (dd) Velvet covert (*Inflectarius subpalliatu*s);
  - (ee) Waccamaw amnicola (*Amnicola* sp.);
  - (ff) Waccamaw siltsnail (*Cincinnati*a sp.); and
  - (gg) Wavy-rayed lampmussel (*Lampsilis fasciola*).
- (7) Reptiles:
- (a) Carolina pigmy rattlesnake (*Sistrurus miliarius miliarius*);
  - (b) Carolina swamp snake (*Liodytes pygaea paludis*);
  - (c) Carolina watersnake (*Nerodia sipedon williamengelsi*);
  - (d) Cumberland slider (*Trachemys scripta troostii*);
  - (e) Diamondback terrapin (*Malaclemys terrapin*);
  - (f) Eastern chicken turtle (*Deirochelys reticularia reticularia*);
  - (g) Eastern coachwhip (*Coluber [=Masticophis] flagellum flagellum*);
  - (h) Eastern slender glass lizard (*Ophisaurus attenuatus longicaudus*);
  - (i) Eastern spiny softshell (*Apalone spinifera spinifera*);
  - (j) Northern map turtle (*Graptemys geographica*);
  - (k) Outer Banks kingsnake (*Lampropeltis getula sticticeps*);
  - (l) Stripeneck musk turtle (*Sternotherus peltifer*); and
  - (m) Timber rattlesnake (*Crotalus horridus*).

*History Note:* Authority G.S. 113-134; 113-333;  
 Eff. September 1, 1989;  
 Amended Eff. October 1, 2017; August 1, 2016; May 1, 2008; July 18, 2002; April 1, 2001;  
 November 1, 1991; April 1, 1991; June 1, 1990;  
 Readopted Eff. October 1, 2021;  
 Amended Eff. October 1, 2024; February 1, 2023.

This content is from the eCFR and is authoritative but unofficial.

## Title 50 –Wildlife and Fisheries

### Chapter I –United States Fish and Wildlife Service, Department of the Interior

#### Subchapter B –Taking, Possession, Transportation, Sale, Purchase, Barter, Exportation, and Importation of Wildlife and Plants

#### Part 21 –Migratory Bird Permits

#### Subpart D –Provisions for Depredating, Overabundant, or Otherwise Injurious Birds

Authority: 16 U.S.C. 703-712.

Source: 39 FR 1178, Jan. 4, 1974, unless otherwise noted.

#### § 21.174 Control order for Muscovy ducks in the United States.

- (a) **Control of Muscovy ducks.** Anywhere in the contiguous United States except in Hidalgo, Starr, and Zapata Counties in Texas, and in Alaska, Hawaii, and U.S. territories and possessions, landowners and Federal, State, Tribal, and local wildlife management agencies, and their tenants, employees, or agents may, without a Federal permit, remove or destroy Muscovy ducks (*Cairina moschata*) (including hybrids of Muscovy ducks), or their nests, or eggs at any time when found. Any authorized person may temporarily possess, transport, and dispose of Muscovy ducks taken under this order.
- (b) **Muscovy ducks in Hidalgo, Starr, and Zapata Counties in Texas.** In these counties, take of Muscovy ducks, their nests, and their eggs may be allowed if we issue a depredation permit for the activity.
- (c) **Disposal of Muscovy ducks.** You may donate Muscovy ducks taken under this order to public museums or public institutions for scientific or educational purposes, or you may dispose of them by burying or incinerating them. You may not retain for personal use or consumption, offer for sale, or sell a Muscovy duck removed under authority of this section, nor may you release it in any other location.
- (d) **Other provisions.**
  - (1) You must comply with any State, territorial, or Tribal laws or regulations governing the removal or destruction of Muscovy ducks or their nests or eggs.
  - (2) You may not remove or destroy Muscovy ducks or their nests or eggs if doing so will adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. If you use a firearm to kill Muscovy ducks under the provisions of this section, you must use nontoxic shot or nontoxic bullets to do so.
  - (3) If you operate under this order, you must immediately report the take of any species protected under the Endangered Species Act, or any other bird species protected under the Migratory Bird Treaty Act, to the Fish and Wildlife Service Ecological Services Office for the State or location in which the take occurred.
  - (4) We reserve the right to suspend or revoke the authority of any agency or individual to undertake Muscovy duck control if we find that the agency or individual has undertaken actions that may harm Federally listed threatened or endangered species or are contrary to the provisions of this part.

[75 FR 9321, Mar. 1, 2010. Redesignated at 87 FR 882, Jan. 7, 2022; 87 FR 883, Jan. 7, 2022]



Wildlife Services

# CAUTION

**Feeding may harm wildlife and is a serious threat to aviation safety.**



## ALL FEEDING IS PROHIBITED

USDA is an equal opportunity provider, employer, and lender. APHIS-22-011-1 | Issued June 2022



## THE HAZARDS OF FEEDING WILDLIFE

Many people enjoy feeding wildlife because it allows them to have close contact or because they believe they are helping the animals. While seeing wild animals up close can be enjoyable, providing wild animals with a steady, human supplied food source nearly always leads to problems for both the animals and humans.

### There are many good reasons not to feed wildlife including:



flickr.com/Alan Light



flickr.com/Park Ranger

- **Feeding increases the chance of disease transmission to wildlife, people and pets.** When food is readily available, animals will gather in abnormally large numbers. By gathering animals together in unnatural groups, diseases can spread much more quickly.
- **Feeding can create unintended conflicts with humans.** Wild animals that are used to being fed by humans commonly lose their fear of people. Animals that are unafraid of people will approach them for food, and are sometimes mistaken as rabid, aggressive or mean, then killed for that behavior. An instinctive wariness of people is important to a wild animal's survival.
- **Feeding can degrade surrounding native habitat.** Wildlife habitat is negatively impacted when animals are unnaturally concentrated in areas where feeding occurs. Reproduction rates may also be affected when an artificial food source is readily available. In the wild, the number of animals being born is often directly related to the amount of natural food available. The number of animals surviving will also depend on how much food is available. This is nature's way of keeping a balance.
- **Feeding can lead to unhealthy animals and foraging habits.** Animals who are raised relying on humans for food may struggle to survive in the absence of that food source when they disperse from their parents' territory. Additionally, wild animals need a variety of foods in their diet, if they fill up on human provided food they will not get the nutrients needed to stay healthy.

**The best thing you can do to care for the wild animals on your property is to give them habitat, not handouts.** [Naturescaping](#) is a great way to provide the animals with natural sources of food and shelter that will not put them in danger the way a human provided food source will. You will still be able to enjoy wildlife on your property, but at a safe distance for both you and the animals.

### General Considerations for Handling Wildlife

1. Working with wildlife puts individuals at greater risk of being exposed to certain zoonotic diseases. Considering getting the following vaccinations:
  - [Tetanus vaccine](#): protects against spores of the tetanus bacteria that is commonly found in soil. Once vaccinated, a booster is needed every 10 years.
  - [Rabies vaccine](#): protects against the rabies virus which is spread through the saliva of an infected animal. The rabies vaccine consists of a series of three doses: the initial dose, 7 days after the initial dose, and 21 or 28 days after the initial dose. Booster shots are then given as needed.
2. Carry a wallet medical card that explains to medical personnel that you work with wildlife and could have been exposed to a zoonotic disease.
3. Ensure that you have the proper personal protective equipment such as:
  - Latex or nitrile gloves
  - Facemasks/ventilators
  - Eye protection
  - First-aid kit
4. Be aware of your surroundings and ensure that you have the proper equipment to safely handle the situation prior to acting.
5. Wear gloves when handling wildlife regardless of whether the animal is alive or dead.
6. Thoroughly wash hands after coming into contact with an animal.
7. Clothes, shoes, and vehicles should be thoroughly cleaned as they may be contaminated.

### General Ways to Prevent Conflicts with Wildlife

**Most nuisance complaints about wildlife in urban and suburban areas stem from animals accessing a food source. Wildlife accessing a food source (unsecured garbage, pet food or birdseed) is not considered property damage and a depredation permit should not be issued. Instead recommend securing the food source.**

1. Pet food:
  - Feed pets indoors whenever possible.
  - If pets must be fed outside, supervise the food to ensure that wildlife does not have access to it. Do not leave food out overnight or unattended.
  - When the pets are done eating, clean up any excess or spilled food. Bring the food bowls inside or wash the bowls before putting them back outside. Empty bowls that smell like food will still attract animals into the area.
2. Garbage:
  - Keep garbage in metal cans with tight lids.
  - If possible, keep garbage inside a shed or garage where animals will not have access to the trashcans.
  - Use bungee cords, ratchet straps, or latches to modify garbage cans and prevent animals from getting inside.

3. Birdfeeders:
  - As an alternative to using birdfeeders, consider growing native plants that will attract a variety of birds into the area. The Audubon Society created a native plant database (<https://www.audubon.org/native-plants>) that shows which birds are attracted to each plant.
  - Hang birdfeeders in trees away from houses. This will help keep animals from associating houses/porches with a food source.
  - Use baffles, trays, caging, or weight sensitive feeders to prevent non-target animals from having access to the birdseed.
  - Regularly clean birdfeeders with a 10% bleach solution to help prevent spread of diseases.
4. Do not feed any animals by leaving out food scraps.
5. Electric fencing can deter wildlife from beehives, gardens, and other food sources. Ensure that electric fences are properly built for the species you are trying to deter.
6. Maintain lawns by removing debris, structures in disuse, wood piles, or mulch piles which can make ideal shelters for wildlife.
7. Animals will often dig small holes to eat grubs that are in the ground. There are registered pesticides that can be applied to lawn to treat for grubs. Ensure that pesticides are applied properly and in accordance to the directions on the label. Licensing from the North Carolina Department of Agriculture and Consumer Services is required to apply pesticides to an individual's yard for compensation. For questions regarding these licenses call (919) 733-3556.
8. Airhorns, whistles, noisemakers, and banging pots and pans or trashcan lids can scare animals out of the area. For harassment to be effective, it should begin as soon as the animal comes into the area and persistently used every time the animal returns.
9. If animals are going underneath structures, place a radio, tuned to a talk station, near the access point to make animals feel threatened and deter them from returning. Once vacated, use chicken wire or hardware cloth to prevent future access.

### **Euthanizing Animals**

1. The American Veterinary Medical Association (AVMA) has established guidelines on how to humanely euthanize animals. To view this document, click [here](#). Please note that use of inhumane methods of euthanasia (drowning, smothering, freezing, etc.) will result in enforcement action and potential loss of certification.
2. Be aware of local ordinances that prevent certain methods of take (ex. discharging a firearm within city limits).
3. Animals in the order Carnivora, armadillos, groundhogs, nutria, and beaver must be released on site or humanely euthanized at the capture site or taken to a facility designed to humanely handle the euthanasia. For animals that can be relocated, they may be released on private property with permission of the landowner. Written permission must be obtained from the appropriate government entity before an animal is released onto public land.

### **Important Contacts**

[Regulated Actives and Permits Section \(RAPS\)](#) – Handles all WDCA certifications and can answer questions regarding any regulated activity outside of hunting, fishing, and trapping. RAPS can be contacted Monday- Friday 8 AM - 5 PM by calling (919) 707-0061 or emailing [raps@ncwildlife.org](mailto:raps@ncwildlife.org).

**Wildlife Helpline** – The Wildlife Helpline is staffed by three biologists that can answer questions about identification, behavior/biology, injured/orphaned, or nuisance wildlife. Individuals can call the Helpline Monday-Friday 8AM- 5PM at (866) 318-2401 or email at [wildlifehelpline@ncwildlife.org](mailto:wildlifehelpline@ncwildlife.org).

[Wildlife Enforcement Officers \(WEO\)](#) – There are usually 1 or 2 WEOs per county. WEOs can write depredation permits for all species except for black bears.

[District Biologists \(DB\)](#) - There are 9 DBs that each cover 9-12 counties. DBs can write state depredation permits for every species and are the only individuals that can write permits for black bear.

[United States Department of Agriculture Wildlife Services \(USDA WS\)](#) – USDA WS aids in the procurement of federal depredation permits for migratory birds through the United States Fish and Wildlife Services (US FWS) in Atlanta, Georgia. USDA WS also has assistance programs for certain species such as vultures, feral swine, Canada geese, and beavers.

[Wildlife Rehabilitators](#) – There are licensed wildlife rehabilitators across the state that can take in injured or orphaned wildlife. Always contact a rehabilitator prior to bringing them an animal to ensure they are able to take it in.

[County Health Department](#) – If removing a potentially rabid animal that a person or unvaccinated pet was exposed to contact the County Health Department to determine how to get the animal tested.



## Muscovy Ducks

Muscovy ducks have naturally expanded their range from Mexico into the southernmost part of Texas. Muscovy ducks were added to the list of birds protected under the Migratory Bird Treaty Act in 2010 due to this expansion. However, these ducks are popular in the pet trade, so depredation order 50 CFR 21.54 allows removal of Muscovy ducks outside of where they naturally occur. Any Muscovy ducks in North Carolina are considered released domestics.

**What is the common damage caused by Muscovy ducks?** People often become upset by ducks that utilize and defecate in their pools. Muscovy ducks may become nuisances by staying around yards without fear of people.

**Can a WCA write a depredation permit?** A WCA does not need to write a state depredation permit for Muscovy ducks since they are not native wildlife in NC. No federal permit is required for Muscovy ducks under depredation order 50 CFR 21. 54.

**Can Muscovy ducks be relocated?** No, under depredation order 50 CFR 21.54 you may not release a Muscovy duck in any location other than the capture site. They must be released on site, euthanized at the capture site, or taken to a facility designed to humanely handle the euthanasia.

**What can I do with sick or injured Muscovy ducks?** Muscovy ducks are non-native in North Carolina. It is not recommended that they be rehabilitated. Advise individuals to leave the bird alone to see if it can recover on its own. If the bird has a life-threatening injury or illness it should be humanely euthanized and disposed of in a safe and sanitary manner.

**Are there any safety concerns?** No, however it is good practice to wear gloves when handling any animal.

### Non-lethal Options:

- Harassment
  - Dogs, lasers, and loud noises can deter ducks. This is most effective when they have just begun to land on someone's property.
- Landscape modification
  - Ducks prefer water bodies that are surrounded by short grassy areas that allow them to have a place to rest and graze. This makes manicured lawns around retention ponds ideal habitat. Planting tall grasses or trees around a pond or installing fencing can make an area less desirable to ducks. To learn more click [here](#).
  - Ducks prefer gradually sloping grassy areas around the water sources. Using riprap or creating a steep slope can be effective in deterring them.

### Lethal Options:

- A state depredation permit is not required to take Muscovy ducks.
- Federal permits in NC are not required under depredation order [50 CFR 21.54](#).
  - Anywhere in the contiguous United States except in Hidalgo, Starr, and Zapata Counties in Texas and in Alaska Hawaii and U.S. territories and possessions, landowners and Federal, State, Tribal, and local wildlife management agencies, their tenants, employees

or agents may, without a Federal permit, remove or destroy Muscovy ducks and their nests or eggs at any time when found.

- You may donate Muscovy ducks taken under this permit to public museums or institutions for scientific or educational purposes, or you dispose of them by burying or incinerating them. You may not retain for personal use or consumption, offer for sale, or sell a Muscovy duck removed under the authority of this section, nor may you release it in any other location.



## Nonnative Birds

Eurasian collared doves, European starlings, house sparrows, mute swans, and pigeons (see Pigeon section for more information) are not native species. They are not protected under the jurisdiction of the Wildlife Resources Commission, nor are they protected under the Migratory Bird Treaty Act. In North Carolina, there are established breeding populations of house sparrows, European starlings, and Eurasian collared doves. Mute swans will occasionally come into NC from northern breeding populations, but there are no records of breeding pairs in NC. Mute swans may also be released/escaped pets. Mute swans should not be confused with [tundra swans](#) which are a native migratory bird. Mute swans are much larger than tundra swans and have an orange bill.

**What is the common damage caused by these birds?** House sparrows, European starlings, and Eurasian collared doves will roost in large flocks, potentially becoming nuisances. House sparrows will sometimes nest in vents leading into houses. Mute swans can be very aggressive when approached and have no fear of people if they are released as pets.

**Can a WCA write a depredation permit?** A WCA does not need a state or federal depredation permit to remove any nonnative species.

**Can nonnative birds be relocated?** No, nonnative species cannot be relocated.

**What can I do with sick or injured nonnative bird?** These species are considered exotic and invasive. It is not recommended that they be rehabilitated. Advise individuals to leave the bird alone to see if it can recover on its own. If the bird has a life-threatening injury or illness it should be humanely euthanized and disposed of in a safe and sanitary manner.

**Are there any safety concerns?** No, however it is good practice to wear gloves when handling any animal.

### Non-lethal Options:

- Exclusion
  - Covering vents with a fine mesh (less than 3/4") will prevent house sparrows from getting inside homes to nest.
  - House sparrows can be deterred from bird feeders by using monofilament [halos](#) around the feeder.
- Harassment
  - Visual or noise deterrents are most effective when birds begin landing in an area. If they have been in the area for a while, harassment becomes less effective.
- Landscape modification
  - Swans prefer gradually sloping grassy areas around water sources, making it easier for them to move from water to land. Using riprap or creating a steep slope can be effective at making the landscape less attractive.
  - Removing submerged aquatic vegetation will remove the swans' food source.

### Lethal Options:

- No permits are needed to remove any of the listed species.
  - Check with local ordinances to ensure there are no local laws preventing take.
- Active nests are not protected under the migratory bird treaty act and can be removed at any time.
- Birds can be trapped and removed without any additional licensing.



# Board of Commissioners Meeting Agenda Item Submittal

---

Item To Be Considered: **Visitors Center Repair and Maintenance**

Board Meeting Date: **November 12, 2024**

Prepared By: **Jon Barlow – Town Manager**

---

**Overview:** The Visitors Center located at 203 Church St. has evidence of mold growing in numerous areas of the structure. The conditions necessitated the need to close the building until the problem can be remediated. The Board instructed staff to engage the services of an expert in the area of mold identification and remediation. A thorough inspection was performed on October 15, 2024, by Safe Harbor and will be presented.

This matter was originally presented to the Board on September 10, 2024, along with a proposal from Right Coast Solutions to remediate the mold. Safe Harbor home Inspections was a firm that was recommended to us. As suspected, the mold condition is extensive. This report does not provide a cost estimate for the repairs. If the board was interested in repairing the Visitor’s Center, then a contractor would need to provide us a new estimate based on the finding in this report.

**Background Attachment(s):** Inspection Report by Safe Harbor Home Inspections

**Recommended Action:** Provide staff direction on the preferred course of action to remediate the problem.

---

**Action:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# INSPECTION REPORT

Item VI - d.



For the Property at:  
**203 CHURCH STREET**  
SWANSBORO, NC 28584

---

Prepared for: TANK BATES  
Inspection Date: Tuesday, October 15, 2024  
Prepared by: Kelly Honeycutt, 4741



*Kelly Honeycutt*

Safe Harbor Home Inspections  
208 Middleridge Drive  
Hubert, NC 28539  
9104430145

[www.safeharborenc.com](http://www.safeharborenc.com)  
[kellyh@safeharborenc.com](mailto:kellyh@safeharborenc.com)

Making sure your house becomes your home.

# SUMMARY

203 Church Street, Swansboro, NC October 15, 2024

Report

Item VI - d.

[www.safeharbor.com](http://www.safeharbor.com)

## SUMMARY

Required Statement

[Priority Maintenance Items](#)

## Interior

### RECOMMENDATIONS \ Overview

**1. Condition:** • Click this link to view the certified lab analysis results from the testing that was done on the date of inspection:

[https://www.dropbox.com/scl/fi/uz17j7qnc7rba3wxapjv2/24-3128-certs\\_230ChurchStSwansboroNC\\_SafeHarbor.pdf?rlkey=gvozlid](https://www.dropbox.com/scl/fi/uz17j7qnc7rba3wxapjv2/24-3128-certs_230ChurchStSwansboroNC_SafeHarbor.pdf?rlkey=gvozlid)

Spore counts noted in the air of the property were low due to the installation of the dehumidifiers and the HEPA filters installed on the dehumidifiers. Without the installation of these dehumidifiers, the spore count in the property would most likely be much higher. I recommend continuing to run the dehumidifiers to keep the mold growth at bay until a decision can be made about remediation.

A tape sample of the visible growth showed numerous *Penicillium/Aspergillus* group and numerous Hyphal Elements (the root like system of mold.) These molds are typically present when there is water damage, moisture intrusion or high humidity in a structure.

The remediation of this building should not be performed before addressing the HVAC and unconventional construction practices that were noted during the inspection. The HVAC system has a plenum located in a chase at the rear left side of the building. This plenum appears to be producing heavy condensation that has affected both the drywall and subfloor in the building. The wall around this chase should be torn out to evaluate the condensation issue in the wall and make repairs as necessary to stop the condensation which is contributing to the mold growth. The subfloor at the left rear side of the property should also be evaluated and either HEPA vacuumed, cleaned and dried or removed if it is deteriorated and/or rotted.

The subfloor is not complete down the middle of the property and the drywall from the middle interior wall is exposed to the unconditioned crawlspace. It is not recommended to have drywall exposed to the exterior in any area. I recommend removing the drywall on the middle wall, inspecting the stud wall for signs of moisture damage and mold growth, and removing the wall in order to install subfloor under the wall. This may require some temporary supports be built to support the structure if this middle wall is structural. That should be determined by a licensed general contractor before removing the stud wall.

I also recommend further evaluation of the exterior wall connection to the sill plate and foundation wall. It appears that this area is not sealed properly and moisture from the crawlspace is traveling up the wall and hot and moist air is infiltrating the wall cavities. Evidence of this can be seen at staining around electrical outlets and around windows and doors in the property. Any areas that are not sealed between the wall cavities and the crawlspace or exterior should be corrected. Failure to correct the infiltration of air into the wall cavity can result in reoccurrence of microbial growth in the property.

All water and moisture issues within the property should be addressed and resolved before remediation practices begin. Failing to stop the source of moisture can result in reoccurrence of mold growth in the property.

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

Report

Item VI - d.

[www.safeharbor.com](http://www.safeharbor.com)

## SUMMARY

### OPTIONAL \ Interior

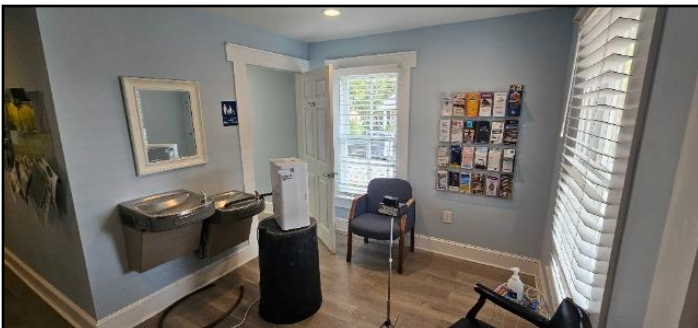
**2. Condition:** • Areas of air infiltration and visible growth were noted in the left side office areas. The rear wall built around the HVAC plenum was saturated. This is most likely due to condensation and this plenum may not be properly insulated. Condensation from the plenum has wet the drywall. This drywall should be removed so that the HVAC plenum can be evaluated by a licensed mechanical (HVAC) contractor and repaired. Any areas of visible mold growth in the wall cavity should be addressed by removing any wet drywall or drywall showing visible mold growth. As motioned previously, the infiltration of air around the perimeter of the exterior walls should be evaluated by a licensed general contractor. I recommend removing all of the drywall from the exterior walls to inspect the seal around the windows as well. Visible growth and air infiltration were noted at electrical outlets and above and below windows and above baseboards. The concern is that the visible evidence is a sign of more extensive mold growth or moisture issues in the wall cavities. I recommend removing all wet drywall, removing the baseboards, removing drywall and insulation 2 feet up from the floor and removing trim and drywall from around the window casings. If visible mold is discovered, continue to remove drywall and insulation 2 feet past visible mold growth. HEPA vacuum and clean the stud walls with an antimicrobial agent and dry the building materials to industry standards. An areas of air infiltration should be addressed while the wall cavity is open and corrected before remediation begins. If the source of moisture is not corrected, remediation practices and drying may need to be repeated.

**Implication(s):** Risk of deterioration of the structural components behind the wet drywall, risk of microbial growth in the wall cavity.

**Location:** Left Side Office Areas

**Task:** Tear our drywall and insulation as described above, correct the sources of moisture, remediated the wall cavities and dry the structure

**Time:** As soon as possible



1. Front room - Dehumidifier installed



2. Visible growth at wall outlet



3. Visible growth at corner of wall



4. Visible growth or infiltration above window

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

## SUMMARY



5. Visible growth or infiltration below window



6. Left Office Area



7. Left Office Area



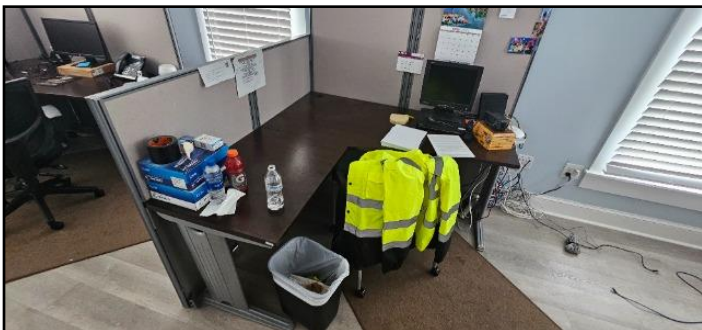
8. Visible growth around outlet



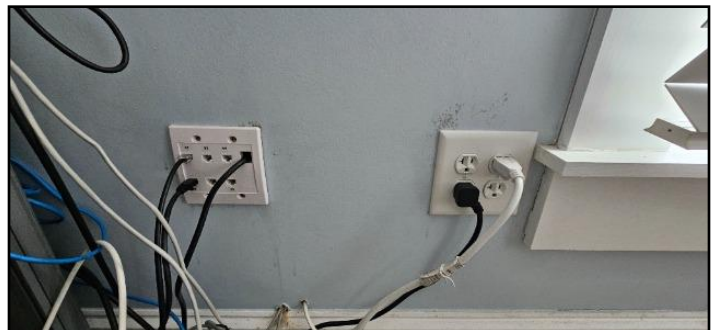
9. Visible growth at baseboard



10. Crack in drywall



11. Left Office Area



12. Visible growth around outlets



# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

Report

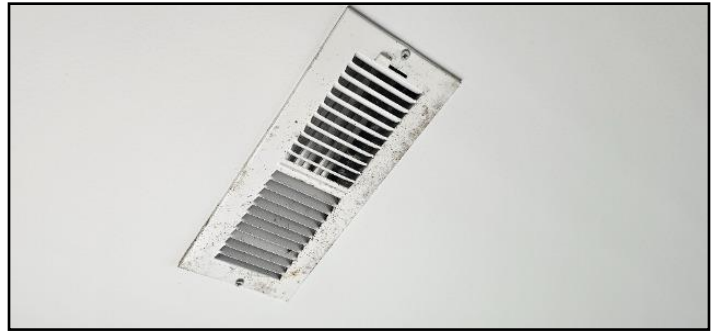
Item VI - d.

[www.safeharbor.com](http://www.safeharbor.com)

## SUMMARY



13. Visible growth above window



14. Visible growth around return



15. Rear left wall



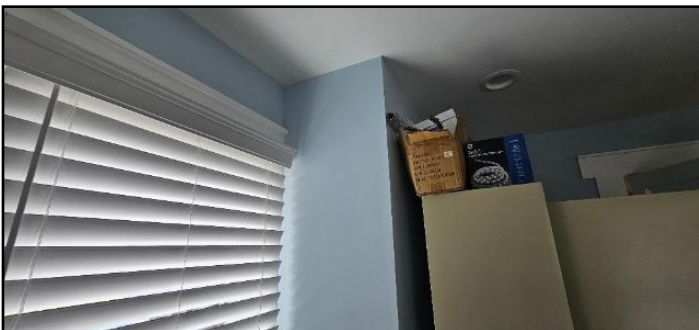
16. Moisture noted around window



17. Picture for location reference



18. Moisture noted at drywall around plenum



19. Picture for location reference



20. Moisture noted at drywall around plenum

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

Report

Item VI - d.

[www.safeharbor.com](http://www.safeharbor.com)

## SUMMARY



21. Picture for location reference



22. Visible growth on drywall near plenum

**3. Condition:** • Visible growth was noted on the wall behind the cabinets in the kitchen. There was also visible mold inside the cabinets. Moisture was detected in the wall cavity behind the cabinets indicating there may be infiltration coming from air leaks at the base of the wall. No water leaks were detected under the sink and no water leaks were noted in the crawlspace however, the plumbing lines under the house were contained above a sheet of vapor barrier that has been stapled to the joists. It is my hypothesis that air is infiltrating the wall cavity through unsealed areas under the home. This would cause moisture to be trapped in the wall behind the cabinets and, unlike other areas of the property, the cabinets area preventing the drywall from drying out and the trapped moisture behind the cabinets is causing heavy mold growth on the drywall. HVAC registers had visible signs of mold growth. Areas of moisture were detected around windows and above baseboards. An area of missing insulation was noted around the exhaust fan in the bathroom. I recommend further evaluation of the base of the wall cavity to see if there are open areas where air is able to infiltrate the wall. The vapor barrier that is stapled up under the plumbing for the kitchen should be removed and the plumbing lines and subfloor in this area should be evaluated. I recommend tearing out drywall 2 feet up from the floors and around windows and doors. The seal around windows and doors should be evaluated and corrected if necessary. Any drywall with visible mold growth should be torn out along with the insulation behind the drywall. The wall cavities should be HEPA vacuumed and cleaned with an antimicrobial agent and dried. Air scrubbers should be run during remediation practices. Again, the source of moisture and/or air filtration into the wall cavities should be corrected to prevent reoccurrence of the mold growth.

**Implication(s):** Risk of deterioration of the structural components behind the wet drywall, risk of microbial growth in the wall cavity.

**Location:** Right Side of Building

**Task:** Correct areas of air infiltration and moisture intrusion and remediate the property as necessary

**Time:** As soon as possible



23. Kitchen



24. Visible growth on register

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

Report Item VI - d.  
www.safeharbor.com

## SUMMARY



25. Visible growth on wall behind cabinet



26. Visible growth on cabinets



27. Visible growth on cabinets



28. Visible growth on cabinets



29. Moistuer behind wall



30. Moisture above window



31. Moistuer in wall beside window



32. Moisture in wall above baseboards

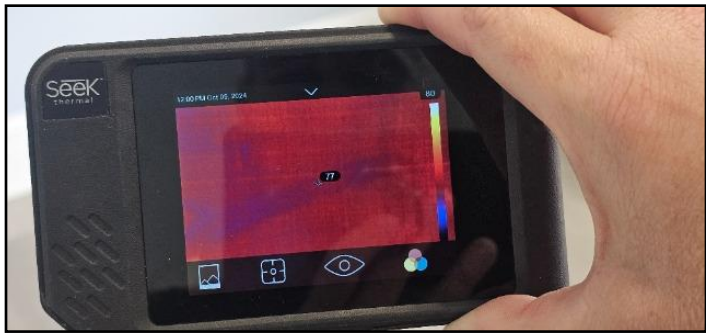
# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

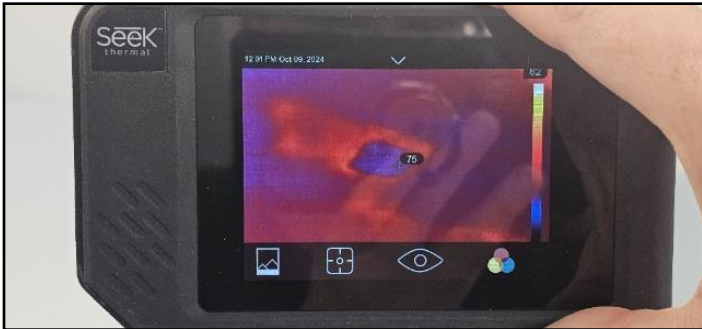
## SUMMARY



33. Picture for location reference



34. Moisture at baseboards



35. Missing insulation around exhaust fan



36. Picture for location reference

### CEILINGS \ General notes

**4. Condition:** • The attic space was inspected as part of the investigation. Plywood boards had been installed over the gable vents. Holes were drilled into the plywood, however, the ventilation in the attic is inadequate. The drilled holes area not enough to properly ventilate the attic. The gable vents should be opened back up for proper ventilation. You can install screening behind the vents to prevent pest entry. There were also gaps noted between the siding boards and daylight was visible in the attic space. No sheathing is installed behind the wood siding. This may be an area where water can enter into the property. The ridge vent was open and appeared to be properly installed. The exhaust vent for the bathroom was not vented to the exterior and insulation around the vent was compressed. The exhaust fan should terminate to the exterior of the property to prevent high humidity in the bathroom. Duct tape (not proper mechanical grade duct tape) was installed on various ducts in the attic indicating there may have been some air leaks that were attempted to be repaired; however, black duct tape is not the correct material for this repair. When the tape gets hot, the glue can melt, and the tape can detach from the ducts. There may be air leaks from the duct lines that are leaking into the attic resulting in loss of heating and cooling, risk of high utility costs and risk of condensation formation in the attic that can raise the humidity of the air being pumped into the conditioned space. The water heater is installed in the attic and a hole has been drilled in the side of the pan, however, the drain line is capped. This does not allow water to drain out of the pan. I recommend installing a drain line from the line at the water heater pan that terminates to the exterior to prevent water damage in the property if the water heater fails. The edge of the top of the drywall from the exterior and interior walls was visible in the attic and mold growth was noted on the drywall. This is not typical building practice and should be evaluated by a general contractor. Once the damaged drywall in the property is removed, new drywall should be installed according to industry practices. I recommend further evaluation of the ventilation in the attic space and correction as necessary, installing a duct line from the bathroom exhaust fan that terminates to the exterior and replacing the compressed insulation around the exhaust fan, and having the ductwork in the attic further evaluated by a mechanical (HVAC) contractor and repaired as necessary to prevent air leaks into the attic space. The gaps in the wood siding should be addressed. There is no sheathing installed behind the siding. I recommend further evaluation by a general contractor and correction as necessary to prevent water entry into the attic from the siding. I also recommend further evaluation of the siding once the exterior walls from the interior of the property have been removed to see if there

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

## SUMMARY

**Implication(s):** Risk of water entry and air infiltration into the attic and wall space, risk of HVAC air leaks that can cause high humidity in the attic space, improper ventilation that can cause high humidity in the attic space and improper discharge point of the bathroom exhaust fan and drain line for the water heater.

**Location:** Attic

**Task:** Further evaluation of the attic space, including inspection of the ductwork, installation of siding, amount of ventilation, termination of the exhaust fan and exposed edges of drywall that had visible mold growth on the edges

**Time:** As soon as possible and as these areas become available during the remediation of the property



37. Gable vent covered with plywood



38. Gaps between wood siding



39. Ridge vent looks adequate



40. Exhaust fan not exhausted to exterior



41. Discolored insulation should be removed



42. Gaps in siding - no wall sheathing installed

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

## SUMMARY



43. Drain line capped - improper



44. Ductwork repaired with improper duct tape



45. Ductwork repaired with improper duct tape



46. Edge of drywall visible from the attic

### FLOORS \ General notes

#### 5. Condition: • Water damage

The floors throughout the property had moderate to high moisture readings. Due to the wet subfloor noted in the crawlspace and the moisture issue noted throughout the property, I recommend removing the floor covering as part of the remediation process. Once the floor covering has been removed, the subfloor should be evaluated. Any areas of deteriorated or rotted subfloor should be replaced and remaining subfloor in the property should be HEAP vacuumed, cleaned with an antimicrobial agent and dried to industry standards.

**Implication(s):** Chance of water damage to structure, finishes and contents | Trip or fall hazard

**Location:** Throughout

**Task:** Remove floor covering and follow remediation practices as listed above

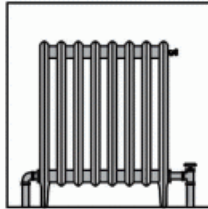
**Time:** As soon as possible

# SUMMARY

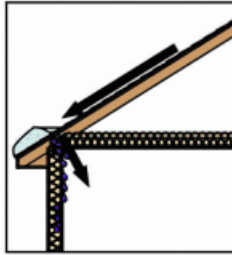
203 Church Street, Swansboro, NC    October 15, 2024

## SUMMARY

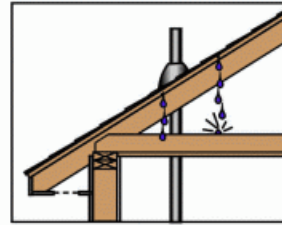
### Sources of interior water damage



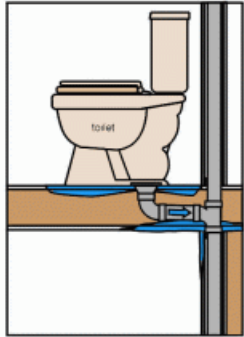
heating leaks



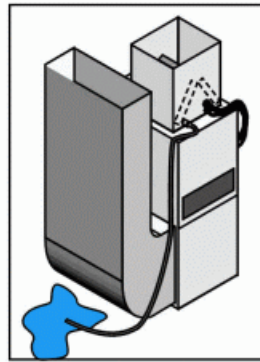
ice damming  
and condensation



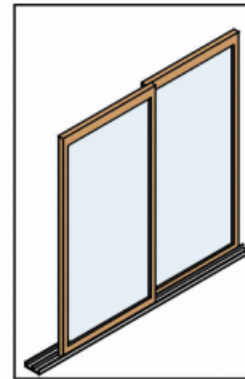
roof or  
flashing leaks



plumbing leaks



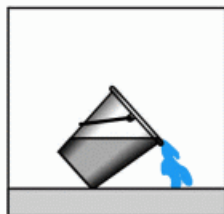
air conditioning leaks



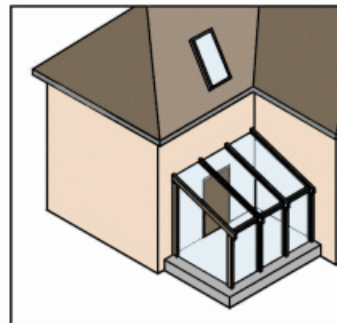
door leaks



melting snow



accidental spills



wall, window, solarium and skylight leaks

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

## SUMMARY



47. Water damage



48. Water damage



49. Water damage



50. Water damage



51. Water damage



# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

Report

Item VI - d.

[www.safeharbor.com](http://www.safeharbor.com)

## SUMMARY

### Site Info

#### **RECOMMENDATIONS \ General**

**6. Condition:** • The crawlspace was inspected as part of the investigation. The crawlspace is partially below grade and plastic vapor barrier has been "taped" up around the perimeter of the crawlspace wall to prey to prevent ground water from entering and standing on top of the vapor barrier. The crawlspace is well ventilated but the staggered bricks that allow for ventilation also allow water to enter the crawlspace and sit on top of the vapor barrier. This can cause high humidity in the crawlspace. Two main issues were noted in the crawlspace that are contributing to the mold growth in the property. The drywall from the middle wall was visible in the crawlspace. There is a gap in the subfloor down the middle of the crawlspace that allows the drywall to be exposed and air from the crawlspace to infiltrate into the wall cavity. There was also an area of saturated subfloor at the rear of the crawlspace near the HVAC plenum. This subfloor was saturated and may need to be replaced. Mold growth was noted on the subfloor in this area and in other areas of the crawlspace. Fifty percent of the insulation was missing in the crawlspace. There are several ways to correct the issues in the crawlspace. A vapor barrier can be installed under the floor joists instead of on the floor of the crawlspace. This would be more effective as the crawlspace is below grade and the brick is very open allowing water to sit on top of a vapor barrier that has been installed on the ground. This type of vapor barrier installation is very similar to how belly paper is installed under a mobile home but would be a suitable option in this instance due to the construction of the property. The exposed drywall, missing subfloor, saturated subfloor in the rear of the building and the visible mold growth on the subfloor and joists should all be addressed before making corrections to the installation of the new vapor barrier. I am available to discuss options for correct the moisture issues in the crawlspace if you decide to move forward with the remediation of the property.

**Implication(s):** Visible mold growth in the crawlspace and an area of saturated subfloor at the rear of the crawlspace from the condensation coming from the plenum that is installed at the back of the property.

**Location:** Crawl Space

**Task:** Repair issues with HVAC system, remove insulation from under the floor, evaluate and replace areas of deteriorated or rotted subfloor, clean joists and subfloor throughout the crawlspace, dry the structure and install an effective vapor barrier

**Time:** As soon as possible



52. Crawlspace access



53. Vapor barrier on crawlspace floor

# SUMMARY

03 Church Street, Swansboro, NC    October 15, 2024

## SUMMARY



54. Masonry piers



55. Crawlspace below grade



56. Drywall form middle wall visible



57. Subfloor missing



58. Exposed drywall in crawl

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

## SUMMARY



59. Wet Subfloor



60. Microbial growth on drywall exposed in crawl



61. Subfloor incomplete

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

## SUMMARY



62. Wet drywall exposed in crawlspace



63. Microbial growth on drywall



64. Microbial growth on drywall



65. Microbial growth on drywall

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

## SUMMARY



66. Plumbing access limited due to plastic



67. Visible growth on floor joists



68. Vapor barrier "taped" to wall



69. Crawlspace below grade



70. Crawlspace below grade



71. Wet subfloor near HVAC plenum

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

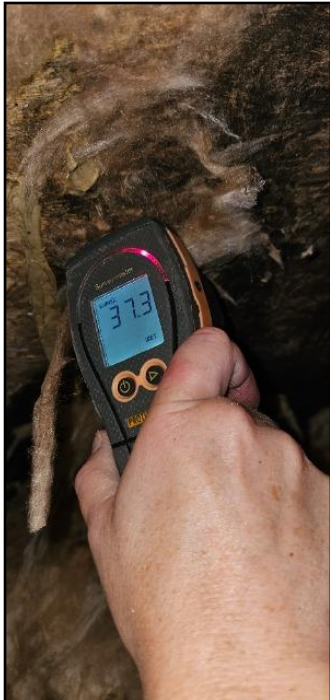
## SUMMARY



72. Wet subfloor near HVAC plenum



73. Visible mold growth



74. Wet subfloor near HVAC plenum



75. Visible mold growth on subfloor

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

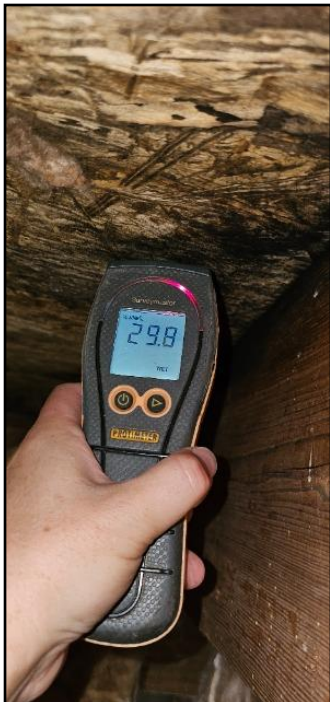
## SUMMARY



76. Wet subfloor near HVAC plenum



77. Wet subfloor near HVAC plenum



78. Wet subfloor near HVAC plenum



79. Area of wet subfloor due to condensation HVAC

# SUMMARY

203 Church Street, Swansboro, NC    October 15, 2024

**SUMMARY**



**80.** *Water damaged subfloor*



**81.** *Visible growth on subfloor*



**82.** *Visible growth on subfloor*

Short Summary

[Home Improvement - ballpark costs](#)

**END OF REPORT**





# Board of Commissioners Meeting Agenda Item Submittal

---

Item To Be Considered: **2<sup>nd</sup> Amendment/Weapon Allowance at Town Hall**

Board Meeting Date: **November 12, 2024**

Prepared By: **Jon Barlow – Town Manager**

---

**Overview:** A discussion focusing on the rights contained within the 2nd amendment to the US Constitution, pertaining to the allowance of weapons at Town Hall was requested by the Board.

**Background Attachment(s):** A summary of NC Firearms laws and municipal authority, and TOS Town Code 130.46 Carrying Concealed Handguns on Public Property

**Recommended Action:** Review and discuss.

---

**Action:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

U. S. Supreme Court, in *District of Columbia v. Heller*, 55 U.S. 570 (2008) ruled that the Second Amendment protects an individual's right to possess a firearm. The District's total ban on handguns violated the Second amendment. The Court also stated that the right to bear arms is not unlimited, and some gun restrictions are permissible.

NCGS 160A-189. Municipalities may by ordinance restrict discharge of firearms in the corporate limits and may regulate the display of firearms on streets or other public property.

NCGS 14-415.23. *Statewide Uniformity* (of regulations on concealed handguns). No local government may enact regulations concerning carrying a concealed handgun. A unit of local government may, however, "adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun, in accordance with GS 14-415.11(c), on local government buildings and their appurtenant premises. "

A local government may adopt an ordinance to prohibit, by posting, concealed carry on recreational facilities (generally described as enclosed facilities, gymnasiums, athletic fields, but only during scheduled events). Concealed carry may not be prohibited in outdoor, passive use areas like greenways.

There is an all-encompassing exception for licensed firearms kept in an enclosed, locked compartment in one's automobile.

NCGS 14-269.2. It is illegal to possess or carry a weapon on school campuses or other educational property, with exceptions noted, including the licensed firearm in a locked vehicle compartment exception.

NCGS 14-415.11 relates to concealed carry permits but provides that concealed carry permits do not authorize concealed carry in state or federal office buildings or in state or federal office located in other buildings.

NCGS 14-269.4 prohibits carrying or possessing a weapon on certain named State properties, and in courthouses, with exceptions, including the licensed firearm in locked vehicle compartment exception.

NCGS 14-277.2 prohibits weapons at parades, processions, picket lines, or demonstrations, with exceptions, including locked vehicle compartment exception.

NCGS 14-269.3 prohibits carrying a firearm in any assembly where an admission fee is charged, or in an establishment where alcoholic beverages are sold.

**§ 130.46 CARRYING CONCEALED HANDGUNS ON PUBLIC PROPERTY.**

Item VI - e.

(A) The definitions set out in G.S. § 14-415.10 are hereby incorporated by reference.

(B) It shall be unlawful for any person to carry a concealed handgun in any local government building owned, leased or used by the town, upon any premises appurtenant to such buildings, or in any recreational facility owned, leased, used or operated by the town.

(C) The Town Manager or designee is hereby permitted to direct the posting of conspicuous notices or statements setting out the prohibition against carrying a concealed handgun upon any location described in division (B).

(D) If any part of this section shall be determined to be invalid or unenforceable, the determination shall not affect the remaining portion of this section which shall remain in full force and effect.

(OC, § 8-1-9) (Ord. passed 9-19-95; Am. Ord. 2013-O18, passed 11-19-13) Penalty, see § 130.99

**Statutory reference:**

*Authority to prohibit handguns on town-owned property, G.S. § 14-415.23*



# Board of Commissioners Meeting Agenda Item Submittal

---

Item To Be Considered: **Proposal to Establish a Funding Policy/Funding Request Application for Nonprofit Organizations**

Board Meeting Date: **November 12, 2024**

Prepared By: **Jon Barlow – Town Manager**

---

**Overview:** At its October 22, 2024, regular meeting, the Board directed staff to develop a funding policy/funding request application for nonprofit organizations. This policy aims to establish a clear and equitable framework for allocating resources to local nonprofits that provide essential services, align with the Town’s priorities, and support community welfare.

**Background Attachment(s):**

1. Funding Draft Policy for Nonprofit Organizations
2. FY25 Funding Request for Nonprofit Organizations Application

**Recommended Action:** Motion to approve the draft Funding Policy and application for Nonprofit organizations.

---

**Action:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Town of Swansboro

### Funding Policy for Nonprofit Organizations

Prepared by: Jonathan R. Barlow, Town Manager

Supersedes: N/A

Proposed to BOC: "Draft"

Effective: 11/12/2024

#### PURPOSE

The purpose of this policy is to promote partnerships between the Town and nonprofit organizations for the benefit of Town of Swansboro residents, to equitably and efficiently allocate resources to strengthen organizations, and to provide sound and clear methods for decisions.

#### COVERAGE

This policy, upon adoption by the Board of Commissioners, shall be applicable to all requests for support from nonprofit organizations.

#### POLICY

- Eligibility:** Organizations serving Town of Swansboro are defined as those with a 501(c)(3) designation; is a group which regularly comes together for purposes of promoting, providing or supporting services, and is one which is described in one or more of the following: uses a location within Town of Swansboro corporate limits for its primary service place, has a majority of Town of Swansboro residents in its service population, or conducts a majority of its activities and programs in Swansboro. Regional organizations which focus a significant program in Swansboro, but otherwise conduct business and operations outside of Swansboro, may also be considered for support or sponsorship for Swansboro-based services. Applications will be available on the Town of Swansboro's website, at the Administration Services Department at the Town Hall.
- General Funding Assistance:** Organizations may apply to the Town of Swansboro for operating funding assistance, specific program costs, or for capital items necessary for successful execution of their mission. These requests will be handled as part of the annual budget year planning process and are due no later than January 31st. Funding awards require an audited copy of financial statements. As with all funding

appropriations, the Board of Commissioners action is required for approval of all nonprofit funding awarded.

3. **Funding Criteria:** The nonprofit application will be maintained by the Town Clerk's office and will be aimed at collecting information related to the following:
  - a. The number of Swansboro citizens directly served by the organization (generally, the larger the number of Swansboro citizens served, the greater the value to the community, but only benefiting a few individuals does not necessarily eliminate it from the possibility of being considered for Town of Swansboro funding).
  - b. How well the mission and services of the organization match those of the Town of Swansboro
  - c. What the impact on Town operations would be if the nonprofit could no longer provide its services
  - d. The level of Town resources necessary to provide the same level of benefits to the citizens and community of Swansboro as the nonprofit currently provides
  - e. How long the nonprofit organization has been in existence (generally, a nonprofit that has been in existence longer has proven its value to the community and its ability to raise funds, but being a new nonprofit does not necessarily eliminate it from the possibility of being considered for Town of Swansboro funding)
  - f. Whether or not an organization received funding in a prior year will not be a determining factor in the recommendation process. Each year is evaluated independently of any prior year funding decisions. Therefore, an award for one year is not a guarantee of funding in any future year(s).
  
4. **Recommendation Process:** The recommendation process will be managed and scheduled as part of the Town of Swansboro annual budget preparation cycle. Completed applications will be reviewed by a representative of the department most closely affiliated with each organization requesting funding. These staff representatives will meet as a group to discuss the requested funding levels of each organization and will reach a consensus on what they as a group believe to be the most efficient, effective, and equitable funding distribution given the completed applications and how well they address the funding criteria referenced above. The funding recommendations made by this group will be reviewed with the Town Manager for any adjustments and inclusion in the Proposed Budget. Following delivery of the Proposed Budget to the Board of Commissioners, nonprofit

organizations will be notified of the amount of funding recommended for their organization. Typically, this will occur after the budget adoption.

- 5. **Funding Decisions:** The nonprofit application packages received will be available for the Board of Commissioners and public inspection in the Town Clerk’s Office. Any adjustments that the Board of Commissioners makes to the recommended funding amounts included in the proposed budget can be made as part of the budget approval process. All agencies requesting funding will be notified of the Board of Commissioner’s final funding decisions by the end of the first full week of the fiscal year (first full week of July).
- 6. **Funding Distribution:** All final nonprofit funding amounts will be distributed to the respective organizations by the end of the first month of the fiscal year (July).
- 7. **Funding Usage:** Funds distributed by the Town of Swansboro may only be spent as indicated in the nonprofit application for which the funds were awarded. Proof of the respective expenditures including actual receipts may be requested as verification by the Town of Swansboro. Town of Swansboro funding distributed to nonprofit organizations may not be used for political activities.

**Town of Swansboro**  
**FY25 Funding Request Application for Nonprofit Organizations**

1. Name of Organization \*

2. Name of Contact or Applicant\*

3. Organization Address\*

4. Phone Number\*

5. Email Address\*

6. Total Amount of Funding Requested\*

7. Description of the project/program and plan.



8. Please provide an itemized proposed expenditure breakdown for funding requested.

9. Please provide a narrative explaining how these funds will be used. Please be specific.

10. Does the applicant declare and certify that the funding requested is not already being provided by the organization or another source for this purpose, unless the previous source of funding has been lost or the request is for the expansion of a program or activity?

11. Has your organization requested and/or been awarded funding for the same purpose from another organization?

12. Does your proposal include cooperation, collaboration, or partnership with any other organizations? If yes, please describe.

13. Town of Swansboro funding, if awarded, will result in an additional funding effort by the organization itself or the availability of funding from another organization, please describe the additional funding that will be provided or generated.

14. Other Documentation to include:

- Copy of your organization’s latest IRS tax form 990
- Proof of your organization’s non-profit status
- Project/program timetable and contact persons responsible for implementation
- An organizational chart with contact names, addresses, and phone numbers.
- Any other information to support your Town of Swansboro funding request

15. General

- A representative of the applicant will be required to attend the Board of Commissioner’s meeting at which the application is to be considered. For annual consideration, an application must be submitted by January 31st.
- Funding is normally provided on a reimbursement basis, based on submission of proper documentation of expenses incurred.
- The applicant hereby acknowledges receipt of the Town of Swansboro Funding Policy for Nonprofit Organizations and agrees to comply with all requirements of that policy, including those related to performance contracts, final reports, and accountability for funds use.

16. Certification

The undersigned authorized representative of the applicant organization certifies that the information provided in this application is accurate and agrees to ensure compliance with the terms and conditions of funding, if provided.

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name Printed \_\_\_\_\_

**Please email all funding requests to Town Clerk Alissa Fender at [afender@ci.swansboro.nc.us](mailto:afender@ci.swansboro.nc.us)**

## ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS

### § 3.1 COMPOSITION OF BOARD OF COMMISSIONERS.

The board of commissioners shall consist of five (5) commissioners to be elected by the qualified voters of the town voting at large in the manner provided in Article IV.

(Am. Ord. 2011-09, passed - -11)

### § 3.2 MAYOR AND MAYOR PRO TEMPORE.

The mayor shall be elected by and from the qualified voters of the town voting at large in the manner provided in Article IV. The mayor shall be the official head of the town government and shall preside at all meetings of the board of commissioners. Where there is an equal division on a question, the mayor shall determine the matter by his vote, but he shall vote in no other case. The mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this charter and by the ordinances of the town and such authority shall specifically include the power to perform the marriage ceremony. The board of commissioners shall choose one (1) of its number to act as mayor pro tempore, and he shall perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the board.

(Ch. 561, Sess. L. 1971, Ch. 8, Sess. L. 1973)

### § 3.3 TERMS; QUALIFICATIONS; VACANCIES.

(A) The mayor shall serve for a term of four (4) years and members of the board of commissioners shall serve for terms of four (4) years or two (2) years, as provided in Section 4.1, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this charter; provided, they shall serve until their successors are elected and qualify. (Amended 1977)

(B) No person shall be eligible to be a candidate or be elected as mayor or as a member of the board of commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the town.

(C) In the event a vacancy occurs in the office of mayor or commissioner, the board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

(Am. Ord. 2009-11, passed 5-19-09; Am. Ord. 2011-09, passed - -11)

#### **Statutory reference:**

*Residency requirements, N.C. Constitution Art. VI; vacancies, see G.S. §§ 160A-63*

*Qualifications, see G.S. § 160A-59*

### § 3.4 COMPENSATION OF MAYOR AND COMMISSIONERS.

The mayor shall receive for his services such salary as the Board of Commissioners shall determine, but no reduction in his salary shall be made to take effect during the term in which it is voted. The Board may establish a salary for its members which may be increased or reduced.

#### **Statutory reference:**

*Compensation of Mayor and Board, see G.S. § 160A-64*

### § 3.5 ORGANIZATION OF BOARD; OATHS OF OFFICE.

The Board of Commissioners shall meet and organize for the transaction of business at a time established by ordinance, following each biennial election and prior to January 1. Before entering upon their offices, the Mayor and each commissioner shall take, subscribe and have entered upon the minutes of the Board the following oath of office: "I, \_\_\_\_\_ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of \_\_\_\_\_, on which I am about to enter, according to my best skill and ability; so help me, God."

(Amended November 10, 1988)

#### **Statutory reference:**

*Organizational meeting of Board is to be held at first regular meeting in December after election results are certified, see G.S. § 160A-68*

### § 3.6 MEETINGS OF COUNCIL.

(A) The Board of Commissioners shall fix suitable times for its regular meeting, which shall be as often as once monthly. Special meetings may be held on the call of the Mayor or a majority of the Board, and those not joining in the call shall be notified in writing. Any business may be transacted at a regular meeting.

(B) All meetings of the Board shall be open to the public. The Board shall not by executive session or otherwise formally consider or vote upon any question in private session.

#### **Statutory reference:**

*Regular and special meeting, see G.S. § 160A-71*

*Open meetings statute, see G.S. § 143-318.9*

### § 3.7 QUORUM; VOTES.

(A) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(B) Three (3) affirmative votes, which may include the vote of the Mayor in case of equal division among the board, shall be necessary to adopt any ordinance or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

(Am. Ord. 2011-09, passed - -11)

#### **Statutory reference:**

*Quorum requirements, see G.S. § 160A-74*

### § 3.8 ORDINANCES AND RESOLUTIONS.

The adoption, amendment, repeal, pleading or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the board. The enacting clauses of all ordinances shall be: "Be it Ordained by the Board of

Commissioners of the Town of Swansboro.” All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

Item VI - g.

**§ 160A-63. Vacancies.**

A vacancy that occurs in an elective office of a city shall be filled by appointment of the city council. If the term of the office expires immediately following the next regular city election, or if the next regular city election will be held within 90 days after the vacancy occurs, the person appointed to fill the vacancy shall serve the remainder of the unexpired term. Otherwise, a successor shall be elected at the next regularly scheduled city election that is held more than 90 days after the vacancy occurs, and the person appointed to fill the vacancy shall serve only until the elected successor takes office. The elected successor shall then serve the remainder of the unexpired term. If the number of vacancies on the council is such that a quorum of the council cannot be obtained, the mayor shall appoint enough members to make up a quorum, and the council shall then proceed to fill the remaining vacancies. If the number of vacancies on the council is such that a quorum of the council cannot be obtained and the office of mayor is vacant, the Governor may fill the vacancies upon the request of any remaining member of the council, or upon the petition of any five registered voters of the city. Vacancies in appointive offices shall be filled by the same authority that makes the initial appointment. This section shall not apply to vacancies in cities that have not held a city election, levied any taxes, or engaged in any municipal functions for a period of five years or more.

In cities whose elections are conducted on a partisan basis, a person appointed to fill a vacancy in an elective office shall be a member of the same political party as the person whom he replaces if that person was elected as the nominee of a political party. (R.C., c. 111, ss. 9, 10; Code, ss. 3793, 3794; Rev., ss. 2921, 2931; C.S., ss. 2629, 2631; 1971, c. 698, s. 1; 1973, c. 426, s. 11; c. 827, s. 1; 1983, c. 827, s. 1.)

<https://canons.sog.unc.edu/2011/02/filling-a-vacancy-on-the-town-council/>



## Coates' Canons NC Local Government Law

### Filling a Vacancy on the Town Council

**Published: 02/02/11**

**Author Name: Frayda Bluestein**

Judy Bailey was not just a member of the town council. She was well-known in town for her dog training business and often entertained at local events with her troupe of trained poodles. So it was no surprise when she – literally – ran off and joined the circus. Once the excitement settled down, questions arose about how to fill the vacancy on the town council. State law clearly provides that the city council is responsible for filling vacancies. But the timing and method are not spelled out. This blog post provides answers to the following questions, which often arise when a vacancy occurs: 1) Must the council fill the vacancy (and if so, how long do they have to do it), or can they decide to allow the vacancy to remain until the next election? 2) Does the law require the council to use any particular process to select the person to fill the vacancy? 3) Are records relating to applicants or nominees to fill the vacancy subject to public access? 4) May the council meet in closed session to discuss candidates under consideration to fill the vacancy? 5) Must the council vote “yes” or “no” for each candidate, or can they vote from a slate of candidates? 6) If there are two votes for one candidate and two for another, can the mayor break the tie? 7) Is an appointment to fill a vacancy for the remainder of the term or only until the next election?

1) Must the council fill the vacancy (and if so, how long do they have to do it), or can they decide to allow the vacancy to remain until the next election?

**G.S. 160A- 63**says: “A vacancy that occurs in an elective office of a city shall be filled by appointment of the city council.” Does the “shall” in this sentence mean that they are required to fill the vacancy or does it mean that if it is to be filled, the council is the body to fill it? There appears to be no case

Copyright © 2009 to Present School of Government at the University of North Carolina.

<https://canons.sog.unc.edu/2011/02/filling-a-vacancy-on-the-town-council/>

interpreting this provision, so it could be read either way. I think the safest and most appropriate reading is that the council must fill the vacancy.

The statute does not set a time frame within which this must be done. In contrast, the statute directing county commissioners to fill vacancies clearly requires them to do it, and provides for the clerk of superior court to do it if the commissioners fail to within 60 days after the vacancy occurs. See, **G.S. 153A-27**. It could be argued that the difference suggests a legislative intent to allow cities an indefinite amount of time to fill the vacancy, but it's hard to square that with the statute's provision that city councils "shall" fill a vacancy. If there is no time within which the appointment must be made, in effect, they never have to make it. If the legislature intended this result, it seems that the statute would say they "may" fill the vacancy.

City council members sometimes suggest that they would prefer to leave it to the electorate to choose a new council member – essentially making a decision not to fill the vacancy before the next election. While this may reflect a genuine desire to avoid displacing the public's opportunity to choose a council member, it opens the process up to manipulation. For example, in the case of an odd-numbered board operating with one less member, a decision not to fill the vacancy increases the role of the mayor in breaking ties. To avoid this, and to provide citizens with the benefit of deliberation and action by the full complement of members called for in the charter, the vacancy should be filled as soon as reasonably possible.

What is the risk of refusing to fill the vacancy, or waiting too long to do it? Citizens may raise concerns, and ultimately, could file a lawsuit, giving a court the opportunity to determine what the "shall" in the statute means. If the court reads the statute as creating a duty to fill the vacancy, the court might order the council to carry out that duty – probably within a "reasonable" time, since no other time is specified. A court would not, however, order the council to appoint a particular person. Courts generally won't interfere with governmental discretion on things like this. See, *In Re Alamance County Court Facilities*, 329 N.C. 84, 105 (1991) ("In matters involving the exercise of discretion, mandamus will lie only to compel public officials to take action; ordinarily it will not require them to act in any particular way.") On the other hand, if a court interprets the statute to allow, but not require the council



<https://canons.sog.unc.edu/2011/02/filling-a-vacancy-on-the-town-council/>

to fill the vacancy, or if a court finds that it is mandatory but there is no time within which it must be done (essentially reaching the same result), there would be no grounds for a court order requiring the council to act.

2) Does the law require the council to use any particular process to select the person to fill the vacancy?

No. Some city charters may have provisions dictating how vacancies are filled. Under the general law, however, there are no specific rules about who must be appointed or how they are selected. Some cities decide to appoint the next highest vote-getter in the most recent election, though, again, unless provided for in the charter, there is no legal requirement to do this. Some boards may ask for nominations and applications from the community, while others may create a nominating committee to develop names, or simply make nominations themselves.

3) Are records relating to applicants or nominees to fill the vacancy subject to public access?

Yes. Whatever method the council uses to identify candidates for appointment, the city may receive or create records of the names and qualifications of those candidates. These materials are public records, and are probably *not* protected under the personnel privacy statutes. There is a case (*Durham Herald Co. v. County of Durham*, 334 N.C. 677 (1993)) in which the court held that records of applicants for appointment as sheriff were confidential under the county personnel privacy statute. The sheriff is an elected official, like a council member. But a sheriff is more like a regular employee than is a council member. David Lawrence argues in his book on North Carolina's public records law, that certain types of council member records (such as tax records) may be protected, but that council members (and candidates for appointment to the council) are otherwise unlikely to be considered employees for personnel record privacy purposes. See, ***Public Records Law for North Carolina Local Governments***, pp.148-149. The exception in the public records law that protects individual identifying information and social security numbers (**G.S. 132-1.10**) protects some information that might be in these records, but bear in mind that home addresses and phone numbers are not covered by this exception. So the

<https://canons.sog.unc.edu/2011/02/filling-a-vacancy-on-the-town-council/>

point here is: Make sure to include in the process (and in any application forms) fair warning about the public nature of the information provided by or about applicants, and avoid asking for private, personal information from applicants that the council doesn't really need.

4) May the council meet in closed session to discuss candidates under consideration to fill the vacancy?

No. As noted earlier, it isn't really accurate to characterize these applicants as potential employees.

More directly, the open meetings law specifically says, "A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another public body and may not consider or fill a vacancy among its own membership except in an open meeting." **G.S. 143-318.11(a)(6)**.

5) Must the council vote "yes" or "no" for each candidate, or can they vote from a slate of candidates?

Again, the statutes don't say anything about this, but there does not appear to be any bar to voting from a ballot containing multiple names, and appointing the person who receives the most votes. Indeed, there are some distinct advantages to the "ballot" approach, which are described in Fleming Bell's publication, ***Suggested Rules of Procedure for a City Council***. Anyone considering how to approach voting on appointments would be well-served by reviewing his discussion of the alternatives (see, Rule 31 Appointments, pp.37-39). If the ballot approach is not used, then the votes are by individual motion with members voting "yes" or "no" for each nominee. This approach can be difficult to manage if there are multiple nominees.

6) If there are two votes for one candidate and two for another, can the mayor break the tie?

No, unless a provision in the city's charter specifically allows it. Under **G.S. 160A-69**, the mayor votes "only when there are equal numbers of votes in the affirmative and in the negative." If the city's mayor has the right to vote on all matters, the issue does not arise and the mayor is free to vote for his or her preferred candidate. If the mayor is "non-voting" and can't break the tie, the members will have to continue to vote until one person gets a majority. Of course, if the voting is by motion on each nominee rather than by ballot, the votes would be "yes" or "no" and the mayor would have authority to break a tie.

7) Is an appointment to fill a vacancy for the remainder of the term or only until the next election?

This is one of the few things about appointments to fill vacancies that the statute actually addresses. The basic requirement is that the person appointed serves until the next election, even if the original term would extend beyond the next election. The person appointed may run for the seat and be reelected, but otherwise, the appointment will end when someone else is elected to that seat. The one exception to this rule provides that if the vacancy actually occurs within 90 days of the next election, the person appointed will serve for the entire remaining term, even if it extends beyond the next

Copyright © 2009 to Present School of Government at the University of North Carolina.

<https://canons.sog.unc.edu/2011/02/filling-a-vacancy-on-the-town-council/>

election. I've always found the wording of this statute to be a bit confusing, but I believe the intent is to limit the term of a person appointed to fill a vacancy and to let the electorate choose a new person at the next election, except in cases where the vacancy occurs too soon before the election to allow time for the actual conduct of the election.

For more on the process for filling vacancies, see: **[How to Fill a Vacancy on an Elected Board.](#)**

All rights reserved. This blog post is published and posted online by the School of Government to address issues of interest to government officials. This blog post is for educational and informational use and may be used for those purposes without permission by providing acknowledgment of its source. Use of this blog post for commercial purposes is prohibited. To browse a complete catalog of School of Government publications, please visit the School's website at [www.sog.unc.edu](http://www.sog.unc.edu) or contact the Bookstore, School of Government, CB# 3330 Knapp-Sanders Building, UNC Chapel Hill, Chapel Hill, NC 27599-3330; e-mail [sales@sog.unc.edu](mailto:sales@sog.unc.edu); telephone 919.966.4119; or fax 919.962.2707.

## Coates' Canons NC Local Government Law

### How to Fill a Vacancy on an Elected Board

**Published: 03/05/13**

**Author Name: Robert Joyce (<https://canons.sog.unc.edu/post-author/robert-joyce/>)**

An elected member of a North Carolina city council dies or moves away or resigns. Or a member of a board of county commissioners. Or a county school board. A vacancy is created. The statutes are clear about who picks the new person to fill the vacancy: the city council (GS 160A-63); the county commissioners (GS 153A-27 and -27.1); the school board (GS 115C-37 and -37.1).

But the statutes do not tell the boards *how* they are to go about deciding who will fill the vacancy. How does the board go about making that decision, conducting that vote, actually filling the vacancy? [For a related discussion on filling vacancies on a city council, see Frayda Bluestein's excellent Coates Canons post [here](http://canons.sog.unc.edu/?p=3894) (<http://canons.sog.unc.edu/?p=3894>).]

For all city councils there are two options. The same is true for about half of the boards of county commissioners and all but a handful of school boards. For the rest of the boards of commissioners and the school boards, it hardly matters.

Hardly matters? How can that be? Governing is serious business and filling vacancies on governing boards is an obligation to be undertaken thoughtfully. How can it be that the process for filling the vacancy hardly matters in some counties and in a few school boards? It's because for 42 counties and six school boards, the board must fill the vacancy with the individual chosen by the county executive committee of the party that the departing board member belonged to. In those 42 counties, if the board member was elected as a Republican, then the vacancy is to be filled by the person named by the county Republican Party executive committee. The commissioners have no choice. The statute says so (GS 153A-27.1). The same is true for six school boards

(GS 115C-37.1). Since the board members filling the vacancy have no option as to who to put on the board to fill the vacancy, the process really hardly matters. Just have a motion, take a vote, and be done with it.

To see the list of the 42 counties, click [here](#)  
(<http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=153A-27.1>) for the statute and for the six school boards click [here](#)  
(<http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=115c-37.1>).

But for all city councils, for more than half of county commissions, and for all but six of the elected boards of education, there are two options for the procedure to fill a vacancy, and the choice of option could make a difference in the outcome.

Option A: the motion-and-vote method. In an open meeting, a member may make a motion something like this: “I move that Larry Hamilton fill the vacancy in Henrietta Miller’s seat.” If, by the regular procedures of the council, that motion receives a majority of affirmative votes, Larry fills the vacancy. If it does not, then a new motion is in order.

Option B: the nomination-and-ballot method. In an open meeting, board members would nominate citizens to fill the vacancy. (Or the board could decide that everyone who has filled out an application is to be considered a nominee.) Then, each board member would vote for the person he or she would like to have fill the vacancy. A person who receives a majority of the votes would be selected to fill the vacancy. If no one receives a majority, then those who receive the fewest votes should be dropped from consideration, so that the voting is between the front-runners. In using the nomination-and-ballot method, the board must decide beforehand whether a majority will be required to fill the vacancy, and, if so, how the lowest vote-getters will be removed for subsequent rounds of voting, if necessary. On this last point, the rules might say, for instance, that after the first round of votes, all candidates who receive

zero votes would be removed. The rules might then say that after the second round, if necessary, all candidates but two will be dropped so that the third round is between the two highest vote-getters.

It is necessary to determine which method will be used before the discussion of particular candidates has begun. If the nomination-and-ballot method is to be used, it is necessary to set the rules for removing low vote-getters at the very beginning.

Also under this method, the rules may say that members are to mark their ballots secretly, or that they vote openly. But even if the rules say that members mark their ballots secretly, the ballots must contain the members' names so that when the vote is counted the minutes will show that council member Jones voted for Tom Smith or for Mary Wuycik. That is, the marking of the ballot can be secret, but the announcement of the vote must be public and the ballots themselves are public. G.S. 143-318.13(b).

Is one method preferable? Yes, the nomination-and-ballot method is preferable for two reasons.

First, Robert's Rules of Order Newly Revised, 10<sup>th</sup> Edition, states a clear preference for the nomination-and-ballot method: "[A] more effective freedom of choice is maintained through the practice of nominating persons for the office, rather than moving that a given person be elected." Robert's Rules, § 46. Because G.S. 160A-71(c) requires that city councils must follow rules that are "not inconsistent" with "generally accepted principles of parliamentary procedure," the preference in Robert's Rules for the nomination-and-ballot method makes it the better method for North Carolina municipalities. The same is true for counties under GS 153A-41. There is no comparable statute for school boards.

Second, the nomination-and-ballot method brings a practical advantage. Consider this discussion from Fleming Bell's School of Government publication *Suggested Rules of Procedure for a City Council*, p. 38:

"Suppose that the Colorful City Council uses motions to [fill a vacancy on the council]. After being recognized by the mayor, council member Smith moves to appoint candidate Green. This causes a quandary for council member Jones. She likes candidate Green, but her first preference is candidate Black. However, she is afraid that if candidate Green is defeated, another council member may be recognized to nominate candidate White, whom she dislikes intensely, before she

is recognized to nominate candidate Black. Should she vote for candidate Green, improving his chances of winning, or hold out for the chance to do battle with White's nominator in catching the mayor's eye?

“By contrast, if the Colorful Council were to follow the nomination and election procedure, it could avoid such fights and give everyone a chance to vote for the candidate of their choosing.”

For cities (but not for counties or school boards), a special question arises: may the mayor vote in case of a tie? The mayor votes in case of tie if the motion-and-vote method is used, but not if the nomination-and-ballot method is used. That is because G.S. 160A-69 provides that the mayor has the right to vote “only when there are equal numbers of votes in the affirmative and in the negative.” In the motion-and-vote method, there can be such an equal number. The motion is that Eunice McHenry be named to fill the vacancy, and the vote is 2-2. That is an equal number in the affirmative and the negative.

With the nomination-and-ballot method, however, the mayor does not vote to break a tie. That is because a tie at 2-2 between Candy Silver and John Pierce does not involve an equal number of affirmative and negative votes—there is no affirmative and negative proposition. So, in that case, the round ends in a tie, the mayor does not vote, and the council must go to a new round of votes, under the rules they have set.



# Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Future Agenda Topics**

Board Meeting Date: **November 12, 2024**

Prepared By: **Alissa Fender – Town Clerk**

**Overview:** The purpose of this memo is to provide the Board with matters that staff anticipates/proposes for upcoming meetings. It should be noted that these items are tentatively scheduled for the specified monthly agenda but are subject to change due to preparation of materials, public notice requirements, etc.

In providing this memo each month, we hope it will also provide an opportunity for the Board to introduce items of interest and subsequent direction for placement on future agendas, which will allow staff the opportunity to plan accordingly.

## **November 26<sup>th</sup>**

- \* Monthly Financial Report

## **December 10<sup>th</sup>**

- \* Samuel Swann Bland Community Service Award
- \* 2025 Board Meeting Schedule Adoption

## **Future Agenda Items**

- \* Minimum Housing Code
- \* High School Recognitions – *(pending response from principal)*
- \* Street Acceptance of Swansgate *(developer has applied)*
- \* Waterfront Access and Development Plan *(review/revision considerations)*
- \* Town Code Amendment to Chapter 91: Fire Prevention
- \* Community Presentations *(ongoing monthly)*
- \* 2nd Amendment/Weapon Allowance at Town Hall
- \* DOD Grant
- \* EMS Plan *(ongoing)*
- \* Presentation – Proposal for Heritage Center Museum in Emmerton School Building *(postponed by presenter)*
- \* UDO/Policy Amendment on acceptance of streets, sidewalks and stormwater infrastructure
- \* UDO Text Amendment related to Fences *(pending)*
- \* Consideration to enable paid parking for downtown
- \* Scouts' recognition *(awaiting response from troop leader)*
- \* Beautification Committee *(Pending)*
- \* Policy Reviews
  - o TDA
  - o Fund Balance Policy *(tabled for Audit completion)*
- \* Rezone for parcel 1139 Hammocks Beach Road *(January)*